Message

Jim Bartlett, Full Circle Compliance [jebartlett@fullcirclecompliance.eu] From:

3/26/2019 7:26:29 PM Sent: minarichcm@state.gov To:

19-0326 Tuesday "Daily Bugle" Subject:

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Tuesday, 26 March 2019

STATE OF THE PARTY The Daily Bugle is a free daily newsletter from Full Circle Compliance, containing changes to export/import regulations (ATF, DOE/NRC, Customs, NISPOM, EAR, FACR/OFAC, FAR/DFARS, FTR/AES, HTSUS, and ITAR), plus news and events. Subscribe here for free subscription. Contact us for advertising inquiries and rates.

MEMS FROM FEDERAL RECISIER

[No items of interest noted today.]

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Fundamentally Flawed" EXIM TRAINING EVENTS & CONFERENCES 13. ECS Presents "Mastering ITAR/EAR Challenges" on 30 Apr - 1 May in Nashville, TN 14. ICPA Presents "2019 EU Conference", 15-17 May in London EDITORSNOTES 15. Bartlett's Unfamiliar Quotations 16. Are Your Copies of Regulations Up to Date? Latest Amendments: DHS/Customs (12 Mar 2019), DOC/EAR (20 Dec 2018), DOC/FTR (24 Apr 2018), DOD/NISPOM (18 May 2016), DOE/AFAEC (23 Feb 2015), DOE/EINEM (20 Nov 2018), DOJ/ATF (14 Mar 2018), DOS/ITAR (19 Mar 2018), DOT/FACR/OFAC (15 Mar 2018), HTSUS (25 Mar 2019) 17. Weekly Highlights of the Daily Bugle Top Stories ITEMS FROM TODAYS FEDERAL REGISTER [No items of interest noted today.] back to top ******** OTHER GOVERNMENT SOURCES 1. Items Scheduled for Publication in Future Federal Register Editions

(Source: Federal Register)

* U.S. Customs and Border Protection; NOTICES; Agency Information Collection Activities; Proposals, Submissions, and Approvals: Country of Origin Marking Requirements for Containers or Holders [Pub. Date: 27 Mar 2019.]

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2. Commerce/BIS: Arnoldo Antonio Arredondo of Beaumont, TX, Denied Export Privileges for Ten Years (Source: Commerce/BIS, 26 Mar 2019.)

- * Respondent: Arnoldo Antonio Arredondo, Selmer, TN
- * Charges: On 28 November 2017, in the U.S. District Court for the Southern District of Texas, Arnoldo Antonio Arredondo ("Arredondo") was convicted of violating Section 38 of the Arms Export Control Act (22 U.S.C. § 2778 (2012)) ("AECA"). Arredondo was convicted of violating Section 38 of the AECA by conspiring and agreeing with others to knowingly and willfully export and cause to be exported, from the United States Munitions List, without the required U.S. Department of State licenses. Arredondo was sentenced to 46 months in prison, three years of supervised release, and an assessment of \$100.
- * Debarred: Denied export privileges for ten years from the date of Arredondo's conviction, until 28 November 2027.
- * Date of Order: 25 Mar 2019

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3. DHS/CBP Posts Harmonized System Update 1904 (Source: CSMS #19-000160, 26 Mar 2019.)

Harmonized System Update (HSU) 1904 was created on March 25, 2019 and contains 1,015 ABI records and 194 harmonized tariff records.

This update contains changes made to support PGA message set functionality. Some, not all, of the associated HTS codes for composite wood products, flagged with an EP7 (TSCA certification 'may be required') code, are included.

In addition, adjustments include those made as a result of the USTR's Notice of Modification to Section 301 Action: China's Acts Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation. The Notice can be found in the Federal Register dated March 25, 2019, Vol. 84 No. 57, page 11152. It can be retrieved here.

Modifications required by the verification of the 2019 Harmonized Tariff

Schedule (HTS) are included as well.

The modified records are currently available to all ABI participants and can be retrieved electronically via the procedures indicated in the CATAIR. For further information about this process, please contact your client representative. For all other questions regarding this message, please contact Jennifer Keeling via email at Jennifer.L.Keeling@cbp.dhs.gov.

- Related CSMS No. <u>19-000082</u>, <u>19-000155</u>.

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4. DoD/DSCA Posts Policy Memo 19-18 (Source: DoD/DSCA, 26 Mar 2019.)

- * DSCA Policy Memo 19-18 Security Assistance Management Manual (SAMM) name change for Macedonia has been posted.
- On February 15, 2019, Macedonia was renamed the Republic of North Macedonia, as reflected by the U.S. Board of Geographic Names precipitated by ratification of the 2018 Prespa Agreement. Effective immediately, SAMM Table C4.T2A. Security Cooperation (SC) Customer and Regional Codes and FMS Eligibility (Regions), is updated to indicate the new name and maintain the historical reference to the former name.

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5. State/DDTC: (No new postings.)

(Source: State/DDTC)

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6. Singapore Customs Circulars of Interest: ASEAN Single Window

(Source: Singapore Customs, 25 Mar 2019.)

Singapore Customs has released the following document(s) on its website:

Notices

* Notice No: 03/2019: <u>Updates to Customs Circular No. 15/2017 Live</u>

Operation of the ASEAN Single Window (ASW) for the Electronic Exchange of Form D under the ASEAN Trade in Goods Agreement of the ASEAN Free Trade Area ("ATIGA")

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NEWS

7. Reuters: "U.S. Sanctions Firms Accused of Helping Fund Iran's Revolutionary Guards"

(Source: Reuters, 26 Mar 2019.)

The United States on Tuesday imposed fresh sanctions on a network of companies and people in Iran, Turkey and the United Arab Emirates it said was helping to raise billions of dollars to fund the operations of Iran's elite Revolutionary Guards.

The U.S. Treasury blacklisted 25 people and organizations, including a clutch of front companies based in the three countries, that were working on behalf of Iran's Islamic Revolutionary Guards Corps (IRGC) and Iran's defense ministry to raise money for their activities.

The targeted institutions include banks and other financial institutions such as Ansar Bank, Atlas Exchange, Iranian Atlas Company, the U.S. Treasury said in a statement. ...

"They created front companies to access the U.S. financial system on their own," said Hook, adding that Tehran was feeling the pressure from U.S. sanctions and created the network to look for a way around the restrictions.

He said the Ansar front companies had raised \$800 million over the last year and a half to buy military vehicles and to fund the IRGC's and Quds Force operations.

Additionally, Hook said the United States was sanctioning Iran's defense ministry "for its support for terrorism" and providing logistics support to the Revolutionary Guards.

A U.S. official said the sanctions were not related to the U.S. State Department's labeling of groups as so-called foreign terrorist organizations, known as FTOs. The defense ministry was blacklisted in 2007 for its role in weapons of mass destruction proliferation, Hook added. ...

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8. ST&R Trade Report: "Still No Exclusion Request Process for China List 3 Goods"

(Source: Sandler, Travis & Rosenberg Trade Report, 26 Mar 2019.)

The Trump administration has yet to comply with a congressional directive to allow requests for exclusions from the Section 301 additional tariffs for most of the Chinese goods subject to such tariffs. Companies interested in seeking such exclusions should consider backing legislation that would require the administration to accept requests.

Imports of so-called List 3 goods from China, with an annual import value of about \$200 billion, were assessed an additional 10 percent tariff as of Sept. 24, 2018. (Click here for a list of affected goods and details on all actions taken in this Section 301 case.) While the Office of the U.S. Trade Representative has accepted requests for tariff exclusions for List 1 (\$34 billion) and List 2 (\$16 billion) goods, it has not provided for exclusions for List 3 goods. Congress directed USTR to do so in an explanatory statement accompanying appropriations legislation signed into law in February and requested a report on the nature and timing of this process no later than March 17.

However, no such report has been submitted and USTR Robert Lighthizer has continued to assert that no exclusion process will be developed until tariffs on List 3 goods are increased from 10 percent to 25 percent. That was supposed to occur March 1 but in late February President Trump delayed it indefinitely.

In the meantime, lawmakers have <u>introduced legislation</u> that would require the establishment of a tariff exclusion request process for goods on List 3 and any future lists. As with the existing exclusion process for List 1 and List 2 goods, refunds could be sought for duties paid on any List 3 goods granted an exclusion. Additionally, efforts are underway to amend this legislation to include an appeals process for goods denied tariff exclusions, with the review possibly being conducted by the International Trade Commission.

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COMMENTARY

9. A. McGregor and C. Whitehouse: "What Are the Circumstances in Which Acting in Breach of EU Sanctions Will Kill a Claim?"

(Source: Reynolds Porter Chamberlain, 21 Mar 2019.)

* Authors: Andy McGregor, Esq., <u>andy.mcgregor@rpc.co.uk</u>, +44 20 3060 6188; and Christopher Whitehouse, Esq., <u>christopher.whitehouse@rpc.co.uk</u>, +44 20 3060 6024. Both of Reynolds Porter Chamberlain LLP.

An Iranian oil company was defrauded in a failed attempt to circumvent EU sanctions - does its claim survive the Patel v Mirza illegality test?

The Transaction

The claimant, Iranian Offshore Engineering and Construction Company or IOEC, was a contractor in the offshore oil and gas sector. In 2012, to purchase an oil rig it paid US\$87 million to a company established in the BVI and controlled by one of the defendants ("Dean"). Arrangements had been made for Dean to acquire the relevant oil rig from a Maltese subsidiary of the Romanian company Grup Servicii Petroliere SA ("GSP"). Ultimately Dean failed to acquire the relevant oil rig from GSP and IOEC's payment was misappropriated by several of the defendants including IOEC's managing Director at the time, Dr Taheri. As a result, IOEC brought proceedings for breach of fiduciary duty, knowing receipt, dishonest assistance, conspiracy and deceit.

The judge found in favor or IOEC in almost all respects. Dr Taheri had been central to the fraud and the other defendants in the proceedings had provided wide-ranging assistance.

Role of Sanctions in the Defense

As a final line of defense, some of the defendants argued that IOEC should not succeed due to the sanctions on trading with Iran in place at the time. They ran the argument that IOEC's claim arose from a contract which was prohibited by the regulation imposing the EU Iran sanctions regime (Regulation EU/267/2012, "the Regulation") in which IOEC was specifically identified (although it ceased to be a sanctioned entity by the time it issued proceedings). The effect of that regulation was for it to be prohibited for any person subject to it to sell, supply, transfer or export drilling equipment to IOEC. The defendants contended that the entire set of arrangements taken together was entered into for the purpose of circumventing the sanctions

regime.

The judge found that the use of BVI-based Dean as an intermediary was an attempt to circumvent the sanctions regime so as to allow an EU company (GSP) to sell to a sanctioned Iranian entity. This brought into play considerations of illegality and of public policy, and required the court to ask itself whether such considerations defeated the otherwise good claims brought by IOEC.

To determine this, the court applied the test in the Supreme Court case of Patel v Mirza. That test requires the court to consider whether it would be contrary to the public interest to enforce a claim if to do so would be harmful to the integrity of the legal system. In assessing if the public interest would be harmed, the must court consider;

- the underlying purpose of the prohibition that has been breached,
- the relevant public policy on which the denial of the claim may have an impact and
- whether denial of an otherwise valid claim would be a proportionate response to the illegality.

On the basis of the points above and applying the criteria set out in Patel v Mirza, the judge considered that it would not be contrary to the public interest to enforce IOEC's relevant claims. The denial of those claims:

- would not enhance the purpose of the sanctions, given that enforcement of the claims would not provide IOEC with a rig, and the purpose of the prohibition was never to prevent the recovery of money obtained by fraud
- would adversely impact the public policy of preventing and deterring fraud and that of the victims of fraud being able to take steps to recover money and property of which they have been defrauded; and
 - would be a disproportionate response to any illegality involved.

The following factors were at the heart of the judge's assessment:

- (a) IOEC's claims were not to enforce the sale agreement with Dean and IOEC did not and would not actually obtain the GSP Fortuna
- (b) IOEC was not, by the date of issue of proceedings, a sanctioned entity and had the transaction taken place at the date it would not have involved a breach of the sanctions regime
- (c) IOEC's complaints related to serious wrongs, which were independent of the intended breach of the sanctions regime, which only provided the opportunity for them to take place.

Accordingly, IOEC's otherwise successful claims succeeded.

Comment

This case provides an interesting example of the extent to which entities complicit in the breach of EU sanctions are still able to bring legal proceedings relating to matters arising out of those breaches. However, it is

difficult to draw any broad principles from this case given the specific factual circumstances.

Of particular interest is the judge's analysis that it was considered material that the relevant activity beaching sanctions at the time was no longer prohibited. This reasoning might be criticized in so far as it seems odd to evaluate the severity of illegality in retrospect rather than at the time it was committed. It is also curious that the judge omits explicit consideration in the judgment of the public interest in ensuring that EU sanctions are enforced.

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10. Johanna Reeves Testifies Before Congress on Proposed Revision of ITAR/USML Cats I, II, and III (Source: Editor) [Excerpts. See copy of full prepared testimony HERE.]

Testimony prepared for presentation by Johanna Reeves, Executive Director, F.A.I.R. Trade Group, to the U.S. House Committee on Foreign Affairs on March 26, 2019: "Proposed Small Arms Transfers: Big Implications for U.S. Foreign Policy"

Chairman Bera, Ranking Member Zeldin, and other distinguished members of the House Foreign Affairs Committee's Oversight and Investigations Subcommittee, thank you for inviting the F.A.I.R. Trade Group to testify today on this important issue of reform to our export control regulations, and the perceived impact such reform may have on our national security and foreign policy. ...

Almost a year ago, the Administration published the last in a series of proposed rules to reform the U.S. export control system; which reform initiative began in 2010 under the Obama Administration. The proposed rules that are at the heart of today's hearing are to transition commercially available firearms from the export controls of the U.S. Department of State's International Traffic in Arms Regulations (ITAR) to the controls of the U.S. Department of Commerce known as the Export Administration Regulations (EAR). It is interesting to note that when the Obama Administration launched the Export Control Reform (ECR) initiative, the ITAR U.S. Munitions List (USML) Categories I, II, and III, the Categories that control firearms and ammunition, were the first categories to be revised. The fact that the rules were not rolled out until May 2018 does not make it a creation of President Trump.

Although no longer branded "ECR," the proposed rules to revise Categories I, II and III are a continuation of the U.S. Government's effort to modernize U.S. export controls and better focus ITAR controls over those weapons or articles that are inherently for military use or that provide the United States with a critical military or intelligence advantage. The purpose of the proposed revisions to the USML is to adjust the scope of the Department of

State's jurisdiction to focus on those weapons or articles that are inherently for military use, or that provide the United States with a critical military or intelligence advantage. All other items will transition to the export controls of the Department of Commerce, as has happened for all previously implemented reform efforts. What is being proposed for USML Categories I, II, and III is nothing new.

Since the publication of the proposed rules for USML Categories I, II, and III, there has been a plethora of misinformation and mischaracterizations of the proposed rules. Indeed, these distortions, many of which are politically motivated, have given rise to the current attempts to prevent the President from exercising authority which Congress originally granted under the Arms Export Control Act. The fact is, the proposed transition rules are not a decontrol over the manufacture, transfer, or export of firearms or ammunition. The proposed changes are an effort to reform outdated regulations and right-size our export control system. The proposed shift in oversight responsibility is long overdue and will help strengthen the national security of the United States by ensuring that export licensing authorities can focus on those items that warrant control under the ITAR rather than waste resources on export licensing for springs and bolts for items that are abundant throughout the world. In addition, this reform is absolutely necessary to ensure "America's ability to engage effectively with the rest of the world and keep our most sensitive technology away from those who would do us harm."

These are not my words. These are the words of Defense Secretary Gates in 2010, when President Obama issued the directive to overhaul the overly complicated U.S. export controls system, a system with too many redundancies to effectively support the national security and foreign policy interests of the United States. By modernizing U.S. export controls, we could more effectively account for emerging critical technologies, whose exports would be subject to closer scrutiny than those items readily available at Walmart or hardware stores.

Items that Have Already Transitioned from State to Commerce Export Controls

Since the Obama Administration first rolled out ECR in 2010, several items once classified as defense articles and subject to ITAR licensing controls of the Department of State have moved over to the licensing controls of the Department of Commerce. The following USML categories were revised under the Obama Administration:

- Launch vehicles and missiles;
- Explosives and propellants
- Vessels of War
- Tanks and military vehicles
- Military aircraft
- Training equipment
- Personal protective equipment
- Military electronics

- Fire control
- Toxicological agents
- Spacecraft and satellites
- Nuclear weapons
- Directed energy weapons
- Gas turbine engines
- Submersible vessels

The list of items that have already moved off the U.S. Munitions List and over to the Commerce Control List is extensive. Every single one of these items is subject to the same set of controls that commercially available firearms and ammunition would be, including the treatment of information published on the Internet.

Military Weapons Will Stay Controlled Under ITAR

Under the proposed transition rules, military weapons will remain under the State Department licensing authority. As I stated earlier, fully automatic firearms will remain under USML Category I. A fully automatic firearm includes those firearms that have the option to select either a semiautomatic function, a two or three-round burst function (in other words it fires two or three rounds with a single pull of the trigger), and also a fully automatic function. These firearms, known as "select-fire" firearms, are well recognized as military weapons. These should not be confused with purely semi-automatic firearms. To that end, some argue the AR15 rifle, a purely semi-automatic rifle, is a military-style weapon. It is not, and it should not be conflated with a rifle that has full automatic capabilities. AR15-type rifles are not used in the military, and to say there is little difference between a semi-automatic firearm and a fully automatic firearm is disingenuous. Congress itself recognized this substantial difference when it established the National Firearms Act of 1934, which imposed significant restrictions on civilian possession of fully automatic firearms, but not on semi-automatic firearms.

While it is true that soldiers in combat may use fully automatic firearms in semi-automatic mode, this is dependent on the situation and threat level. In close quarters, the military trains shooters to engage targets with controlled pairs (two shots). If fire suppression is needed, then full auto is more effective at keeping the enemy down and permits freedom of movement by friendly forces. The use of semi or single shot or controlled pair is more prevalent but it is mostly a matter of ammunition consumption so as not to waste ammunition. For the soldier, the full auto option offers reassurance and a tactically sound choice. It provides lethality overmatch and makes a smaller fighting force more effective.

The AR15, a sporting rifle that has been widely available on the commercial market since 1963, cannot and must not be grouped in the same category as the assault weapon described above. The semi-automatic AR15 (or other model) rifle does not have the design features that allows it to accept a full automatic sear that changes its design into a machinegun capable of shooting automatically. Indeed, the current effort to reform our export control laws will allow the U.S. Government to focus more on controlling

true military assault weapons.

Domestic Controls over Firearms and Ammunition

Any reforms to our export control system will not affect in any way domestic controls over firearms and ammunition. The Bureau of Alcohol, Tobacco, Firearms and Explosives is the agency in charge of enforcing the Gun Control Act and the National Firearms Act, and these statutes will continue to regulate the manufacture, transfer and possession of firearms and ammunition.

ATF controls over firearms in the United States extends to 3-D printed guns. The Gun Control Act prohibits the manufacture, import, sale, shipment, delivery, possession, transfer and receipt of any handgun that is undetectable by x-ray machines commonly used at airports. Violations of this statute are punishable by up to five years imprisonment and a fine of \$250,000. The last time this prohibition was due to sunset in 2013, Congress passed a renewal unanimously by voice vote.

U.S. Department of Commerce Export Controls

(1) Export License Requirements. It is important to remember that not all firearms and ammunition are slated to transition to Commerce controls. The firearms that will remain under the Department of State are those that are inherently military, including fully automatic firearms, regardless of the caliber, fully automatic shotguns, magazines and drums with a capacity of 50 rounds or greater, and all specially designed parts and components therefor. The types of ammunition that will remain with the Department of State include ammunition pre-assembled into links or belts, and projectiles with a core or projectile produced from tungsten, steel, or beryllium copper alloys (also referred to as armor piercing ammunition).

Contrary to many of the objections that have been voiced about the proposed rules, the transition of firearms and ammunition from State Department's oversight to the Department of Commerce's control will NOT result in a decontrol or a deregulation of these articles. Firearms transitioning to the Department of Commerce will be subject to licensing controls under National Security, Regional Stability, Crime Control and Detection, the Firearms Convention, United Nations Sanctions, and Anti-Terrorism. Indeed, the proposed rules make it abundantly clear that the Commerce Department will require U.S. Government authorization to export or reexport firearms or ammunition transitioning from the USML to ANY country, including Canada. The transition will not result in the unlicensed export of firearms and ammunition.

It must be emphasized that the proposed changes are to license processing, NOT POLICY. End-use monitoring will continue, including vetting of potential end-users, and contrary to popular belief, the State Department, as well as the Department of Defense will remain very involved in the review of export license applications for national security and foreign policy reasons. Commerce Department will continue to staff license requests to executive

agencies for review, just as State Department has done under ITAR. Of course, we must not forget the fact that the Commerce Department, like the State Department today, will not approve any license application if the export will violate the laws of the destination country.

(2) Office of Export Enforcement. Another myth is that the Department of Commerce does not have the capability to control firearms or ammunition exports, or has looser licensing rules and procedures. In reality, the Department of Commerce has an arsenal of tools it can use, and indeed does use already to effectively control exports and enforce against export violations, including those that have not yet occurred. The Department of Commerce, Bureau of Industry and Security (BIS) Export Enforcement consists of the Office of Export Enforcement (OEE), the Office of Enforcement Analysis (OEA), and the Office of Antiboycott Compliance (OAC). The overarching mission is to protect the U.S. national security, homeland security, foreign policy and economic interests through a law enforcement program focused on: sensitive exports to hostile entities or those that engage in onward proliferation; prohibited foreign boycotts; and related public safety laws. BIS's Export Enforcement is an elite law enforcement organization recognized for its expertise, professionalism, integrity, and accomplishments. It accomplishes its mission through preventative and investigative enforcement activities and then, pursuing appropriate criminal and administrative sanctions against export violators.

In particular, the Office of Export Enforcement is dedicated to protecting U.S. national security, foreign policy, and economic interests by investigating violations, prosecuting violators of export control laws, interdicting illegal exports, and educating parties to export transactions on how to improve export compliance practices. To accomplish this, OEE Special Agents work with Commerce Department licensing officials and policy staff to deter the export of items which, in the hands of unreliable users, can prove damaging to U.S. national security and foreign policy interests.

Noteworthy is the fact that Commerce enforcement of export controls is carried out by Special Agents, sworn federal officers with "authority to bear firearms, make arrests, execute search warrants, serve subpoenas, detain and seize items about to be illegally exported, and order the redelivery to the United States of items exported in violation of U.S. law." Indeed, OEE is the only federal law enforcement agency exclusively dedicated to the enforcement of export control laws, specifically the EAR, and it works closely with the Department of Justice to prosecute criminal violations, and with the Office of Chief Counsel for Industry and Security for civil enforcement cases. Under the ITAR, the State Department's Office of Defense Trade Controls Compliance investigates export violations. This office is comprised of Compliance Specialists who are not law enforcement officers. What does this all mean? Stated plainly, this means that the Commerce Department already has in place the resources to send special agents to investigate suspected violations of the EAR. And they do. This includes investigating suspected export violations by U.S. persons, as well as suspected unauthorized reexports or transfers by foreign persons. As outlined on OEE's website, OEE Special Agents also conduct end use checks to confirm items are being used in accordance with any license conditions, as well as to assess the suitability of foreign end-users to receive U.S.-origin licensed goods and technology, assess prospective end-users on pending license applications for diversion risk, and conduct educational outreach to foreign trade groups.

In a recent Commerce publication, Don't Let This Happen To You (Nov. 2018), in fiscal year 2017, BIS investigations led to the criminal convictions of 31 individuals and businesses for export violations with penalties of over \$287 million in criminal fines, more than \$166 million in forfeitures, and 576 months of imprisonment. In addition, OEE and BIS's Office of Chief Counsel completed 52 administrative export matters, resulting in over \$692 million in civil penalties." In contrast, in 2017 and 2018 combined the U.S. Department of State, Directorate of Defense Trade Controls (DDTC) issued only two consent agreements.

Fostering Competitiveness of the American Manufacturer

Another unfortunate truth of our current export control system is the unintended harm on our ability to provide weapons to our allies. It is no secret that many foreign governments restrict bidding on supply contracts to non-ITAR-controlled product. This affects U.S. manufacturers from being able to sell firearms and firearm components, all controlled under the ITAR. To illustrate, let me draw your attention to a French tender for semi-automatic pistols. Although it does not specifically reference "ITAR-free," the governing French legislation requires the applicant offer:

- (1) A certification according to which the offeror will be able to meet all obligations in terms of export, import, transfer and transit of defense articles related to the awarded contract, including those obligations contained in any other document related to such tender; and
- (2) The indication of any restrictions resulting from any security or export-control regime applicable to such offeror and/or its defense articles or services and which affects the disclosure, transfer and/or usage of such defense articles and/or defense services (i.e. maintenance services, product support services, etc.).

The legislation does not cite to the ITAR precisely. However, because of the inherent controls of the ITAR that affect all U.S.-origin defense articles and services, especially in terms of prior export license and the required prior approvals from the Department of State for reexports or retransfers, the above provisions of the French legislation nearly eliminate any chance for success in proposing US-origin ITAR-controlled defense articles and/or services in response to this tender (and to any tender for defense articles and services issued by the French Government). On the contrary, this situation does not replicate among E.U. Member States to the extent that, E.U. member states have agreed to principles of mutual trust and reciprocity between the Member States' export control policies and procedures for the defense sector so that once delivered to one Member State, defense articles and/or services from another Member State are controlled onward only by the recipient Member State export control policies and procedures.

Another example is the restriction on countries sourcing product made with U.S. - origin components and parts. The ITAR restrictions on reexport attach to each defense article, so that even for ITAR-controlled parts and components that are incorporated into a non-U.S. end-item, the end-item becomes subject to the ITAR requirement for advance U.S. Government approval for nearly all reexports. At this time, all firearm parts and components and accessories are subject to ITAR export and reexport controls, with very few exceptions. Regardless of the size of the part, whether it be a bolt or a spring, or a barrel or a receiver, the part is subject to ITAR restrictions on reexports. In many cases, the process for obtaining such reexport approval has resulted in significant and even detrimental delays, even when the reexport is for ally governments.

Consequently, there is a push to reduce U.S.-made components from defense products so as not to be burdened with the reexport restrictions under ITAR. Our allies are shunning U.S. products because of ITAR, both because of unreliable delivery and the inability to reexport. The result is they source their products from other countries, including Russia and China. This poses a significant threat to our national security, because not only is the U.S. removed from the immediate supply chain (including potential U.S. government oversight thereof), but long term we are isolated from the replacement and repair market. This has very significant consequences on the American defense sector, not the least of which is the firearms and ammunition manufacturers.

Conclusion

Because of the age and wide-scale availability of the underlying technology, most firearms do not possess characteristics or parameters that provide a critical military advantage to the United States, nor are firearms exclusively available from the United States. In fact, it is these points that make the current system of export controls particularly harmful to U.S. industry, and indeed U.S. national security because of global competition and the inability of U.S. firearms companies to compete with foreign sources. The policies and regulations currently in place have not prevented firearms or the related technology from going to restricted places. Indeed, to our detriment they have only prevented the U.S. firearms industry from becoming reliable suppliers to our NATO and non-NATO allies, and in general competing effectively in the global market place. Similar to the challenges faced by other defense industries, the firearms trade has been negatively impacted by the incentives of foreign companies and governments to avoid U.S.-origin firearms. Our inability to effectively compete globally will undermine our firearms manufacturing base by inducing U.S. companies to move production offshore. This will affect jobs and domestic production levels, thus weakening the US Defense Industrial base. ...

We urge Congress to permit the right-sizing of the longstanding one-sizefits-all export policy for firearms and ammunition, and allow the firearms and ammunition sector to be regulated as other defense sectors are. This reform will not result in the decontrol of firearms or ammunition, and is critical to the positioning of our manufacturers in the world market and thus our national security. It is time to control exports of firearms and ammunition as we do all other sectors in the defense industry, and we look to this Committee to ensure this occurs. ...

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11. K. Lampe and T. Lateef: "What Does a No-Deal Brexit Mean for any Future UK Sanctions Regime?" (Source: Freshfields Bruckhaus Deringer, 25 Mar. 2019)

* Authors: Kristin Lampe, Esq., and Tahleel Lateef, Esq.. Both of Freshfields Bruckhaus Deringer LLP.

(1) No immediate change

Following Brexit, the UK will retain its existing sanctions regime. Sanctions currently in place before Exit Day will be implemented in the UK either by the EU (Withdrawal) Act 2018 (*the Withdrawal Act*) or under new regulations created by the Sanctions and Anti-Money Laundering Act 2018 (*SAMLA*).

The Withdrawal Act carries across EU law into UK law, and enables the Government to address any deficiencies by enacting new statutory instruments. In contrast, SAMLA creates a free standing and unilateral power for the UK to impose its own sanctions.

The combined purpose of these Acts is to ensure continuity between the existing EU and new UK sanctions regimes.

(2) Sanctions powers come home

As an EU member state, the UK's power to impose domestic sanctions is limited to certain anti-terrorism related measures.

Except certain UN measures, all other sanctions currently in effect in the UK are imposed by EU law and have direct effect in the UK under the 1972 European Communities Act, which is set to be repealed by the Withdrawal Act on Exit Day.

Post-Brexit, the UK will be free to impose unilateral sanctions that are not in line with those of the EU. Only time will tell whether the <u>Treasury Committee's reference</u> to "flexible" sanctions means a more onerous and extensive UK regime. If Brexit is delayed (or if the UK ends up staying in the EU) it remains to be seen how the UK's powers under SAMLA will interact with the EU's Common Foreign and Security Policy.

(3) Existing financial sanctions licenses remain valid, for now

The Office of Financial Sanctions Implementation (*OFSI*) has updated its "<u>Post-EU" guidance</u> to confirm that any existing financial sanctions licenses issued by the Treasury will remain valid until they expire, are revoked or are replaced by a license under the UK's new, post-Brexit regime. This indicates that business can continue as usual immediately following Brexit.

Looking ahead, the UK will no longer have to follow the EU regime on sanctions authorizations and exemptions, and new authorizations will be granted under SAMLA. It will be important for businesses to continue to monitor changes to UK sanctions in case these impact on existing licenses and to track any differences between the SAMLA and the EU retained law regimes.

Two steps businesses can take to prepare for a no-deal Brexit:

(1) Broaden approach to sanctions law compliance:

Currently, the UK and EU sanctions regimes are aligned, so compliance with one typically equates to compliance with the other. Post-Brexit this will no longer be guaranteed.

In the future, the UK could be more stringent than its European counterparts, particularly regarding counter-terrorism-related asset freezes. For example, the <u>recent proscription of Hezbollah</u> (including its political wing) as a "Terrorist Organization" could, in the weeks following Brexit, be bolstered by a corresponding asset-freeze measure under the UK's new counter-terrorism sanctions powers.

(2) Review existing UK financial sanctions licenses used to carry out European activities:

The question remains of whether financial sanctions licenses granted by UK authorities will continue to be recognized by the EU in a no-deal scenario. To date, there has been no official announcement from the EU clarifying this issue, or on more general cooperation between the UK and EU on sanctions alignment and enforcement post-Brexit.

As the final countdown to a potential no-deal Brexit continues, it is important for businesses to review any UK financial sanctions licenses used to conduct European activities and ensure that such licenses continue to be effective in the future.

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12. V. Gilinski and H. Sokolski: "America's Nuclear Export Controls are Fundamentally Flawed" (Source: The National Interest, 25 Mar 2019.) [Excerpts.]

* Authors: Victor Gilinski, Program Advisor for the Nonproliferation Policy

Education Center (NPEC), and Henry Sokolski, Executive Director of NPEC, info@npolicy.org, +1 571-970-3187.

Washington must identify countries or regions that ought to not receive significant nuclear goods or technology, starting with the Middle East.

Congressional battles over U.S. nuclear exports revolve around terms in civil cooperation agreements intended to protect against their diversion to military uses. The latest example is the whether the proposed agreement with the Kingdom of Saudi Arabia should include a bar to uranium enrichment. It definitely should, but is this enough to keep the kingdom from making bombs?

The question applies not only to the kingdom. The civil cooperation agreements with importers are the legal basis of American trade in nuclear technology. The fundamental requirement, the sine qua non, is that such exports be subject to periodic inspection by the International Atomic Energy Agency (IAEA). There are generally additional conditions concerning the disposition of produced plutonium and production of enriched uranium. Such agreements make sense among countries with a history of observing their international commitments. ...

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EX/IM TRAINING EVENTS & CONFERENCES

13. ECS Presents "Mastering ITAR/EAR Challenges" on 30 Apr - 1 May in Nashville, TN

(Source: Suzanne Palmer, spalmer@exportcompliancesolutions.com)

- * What: Mastering ITAR/EAR Challenges; Nashville, TN
- * When: April 30-May 1, 2019
- * Where: Renaissance Nashville Hotel
- * Sponsor: Export Compliance Solutions (ECS)
- * ECS Speaker Panel: Suzanne Palmer; Lisa Bencivenga; Timothy Mooney, Debi Davis, Matthew McGrath, Matt Doyle

* Register <u>here</u> or by calling 866-238-4018 or email <u>spalmer@exportcompliancesolutions.com</u>

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14. ICPA Presents "2019 EU Conference", 15-17 May in London

(Source: ICPA)

* What: 2019 EU Conference

- Import and Export Track (click <u>here</u> for the agenda)

- Professional Speakers

- Hot Industry Topics * When: 15-17 May 2019

* Where: The Tower Hotel, London, United Kingdom.

* Sponsor: International Compliance Professionals Association (ICPA)

* Information & Registration: Click here.

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EDITORS NOTES

15. Bartlett's Unfamiliar Quotations

(Source: Editor)

- * **Robert Frost** (Robert Lee Frost; 26 Mar 1874 29 Jan 1963; was an American poet. His work was initially published in England before it was published in America. Known for his realistic depictions of rural life and his command of American colloquial speech, Frost frequently wrote about settings from rural life in New England in the early twentieth century, using them to examine complex social and philosophical themes. Frost was honored frequently during his lifetime, receiving four Pulitzer Prizes for Poetry.)
- "By working faithfully eight hours a day you may eventually get to be boss and work twelve hours a day."
- "Education is the ability to listen to almost anything without losing your temper or your self-confidence."
- * **A. E. Housman** (Alfred Edward Housman; 26 Mar 1859 30 Apr 1936; was an English classical scholar and poet, best known to the general public for his cycle of poems, *A Shropshire Lad.* Lyrical and almost epigrammatic in form, the poems wistfully evoke the dooms and disappointments of youth in the English countryside. Housman was one of the foremost classicists of his age, and has been ranked as one of the greatest scholars who ever lived. He established his reputation publishing as a private scholar and, on the strength and quality of his work, was appointed Professor of Latin at University College London and then at the University of Cambridge. His editions of Juvenal, Manilius and Lucan are still considered authoritative.)
- "Great literature should do some good to the reader: must quicken his perception though dull, and sharpen his discrimination though blunt, and mellow the rawness of his personal opinions."
 - "And malt does more than Milton can to justify God's ways to man."

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16. Are Your Copies of Regulations Up to Date? (Source: Editor)

- * <u>DHS CUSTOMS REGULATIONS</u>: 19 CFR, Ch. 1, Pts. 0-199. Implemented by Dep't of Homeland Security, U.S. Customs & Border Protection.
- Last Amendment: 12 Mar 2019: <u>84 FR 8807-8809</u>: Extension of Import Restrictions Imposed on Archaeological and Ecclesiastical Ethnological Material From Honduras
- * <u>DOC EXPORT ADMINISTRATION REGULATIONS (EAR)</u>: 15 CFR Subtit. B, Ch. VII, Pts. 730-774. Implemented by Dep't of Commerce, Bureau of Industry & Security.
- Last Amendment: 20 Dec 2018: <u>83 FR 65292-65294</u>: Control of Military Electronic Equipment and Other Items the President Determines No Longer Warrant Control Under the United States Munitions List (USML); Correction [Concerning ECCN 7A005 and ECCN 7A105.]
- * <u>DOC FOREIGN TRADE REGULATIONS (FTR)</u>: 15 CFR Part 30. Implemented by Dep't of Commerce, U.S. Census Bureau.
- Last Amendment: 24 Apr 2018: <u>83 FR 17749-17751</u>: Foreign Trade Regulations (FTR): Clarification on the Collection and Confidentiality of Kimberley Process Certificates
 - HTS codes that are not valid for AES are available <u>here</u>.
- The latest edition (1 Jan 2019) of *Bartlett's Annotated FTR* ("BAFTR"), by James E. Bartlett III, is available for downloading in Word format. The BAFTR contains all FTR amendments, FTR Letters and Notices, a large Index, and approximately 250 footnotes containing case annotations, practice tips, Census/AES guidance, and explanations of the numerous errors contained in the official text. Subscribers receive revised copies in Microsoft Word every time the FTR is amended. The BAFTR is available by annual subscription from the Full Circle Compliance website. BITAR subscribers are entitled to a 25% discount on subscriptions to the BAFTR. Government employees (including military) and employees of universities are eligible for a 50% discount on both publications at www.FullCircleCompliance.eu.
- * DOD NATIONAL INDUSTRIAL SECURITY PROGRAM OPERATING MANUAL (NISPOM): DoD 5220.22-M. Implemented by Dep't of Defense.
- Last Amendment: 18 May 2016: <u>Change 2</u>: Implement an insider threat program; reporting requirements for Cleared Defense Contractors; alignment with Federal standards for classified information systems; incorporated and cancelled Supp. 1 to the NISPOM (Summary <u>here</u>.)
- * DOE ASSISTANCE TO FOREIGN ATOMIC ENERGY ACTIVITIES: 10 CFR Part 810; Implemented by Dep't of Energy, National Nuclear Security Administration, under Atomic Energy Act of 1954.
- Last Amendment: 23 Feb 2015: 80 FR 9359, comprehensive updating of

regulations, updates the activities and technologies subject to specific authorization and DOE reporting requirements. This rule also identifies destinations with respect to which most assistance would be generally authorized and destinations that would require a specific authorization by the Secretary of Energy.

- * DOE EXPORT AND IMPORT OF NUCLEAR EQUIPMENT AND MATERIAL; 10 CFR Part 110; Implemented by Dep't of Energy, U.S. Nuclear Regulatory Commission, under Atomic Energy Act of 1954.
 - Last Amendment: 20 Nov 2018, 10 CFR 110.6, Re-transfers.
- * <u>DOJ ATF ARMS IMPORT REGULATIONS</u>: 27 CFR Part 447-Importation of Arms, Ammunition, and Implements of War. Implemented by Dep't of Justice, Bureau of Alcohol, Tobacco, Firearms & Explosives.
- Last Amendment: 14 Mar 2019: <u>84 FR 9239-9240</u>: Bump-Stock-Type Devices
- * <u>DOS INTERNATIONAL TRAFFIC IN ARMS REGULATIONS (ITAR)</u>: 22 C.F.R. Ch. I, Subch. M, Pts. 120-130. Implemented by Dep't of State, Directorate of Defense Trade Controls.
- Last Amendment: 19 Mar 2019: <u>84 FR 9957-9959</u>: Department of State 2019 Civil Monetary Penalties Inflationary Adjustment.
- The only available fully updated copy (latest edition: 19 Mar 2019) of the ITAR with all amendments is contained in *Bartlett's Annotated ITAR* ("BITAR"), by James E. Bartlett III. The BITAR contains all ITAR amendments to date, plus a large Index, over 800 footnotes containing amendment histories, case annotations, practice tips, DDTC guidance, and explanations of errors in the official ITAR text. Subscribers receive updated copies of the BITAR in Word by email, usually revised within 24 hours after every ITAR amendment. The BITAR is available by annual subscription from the Full Circle Compliance website. BAFTR subscribers receive a \$25 discount on subscriptions to the BITAR, please contact us to receive your discount code.
- * <u>DOT FOREIGN ASSETS CONTROL REGULATIONS (OFAC FACR)</u>: 31 CFR, Parts 500-599, Embargoes, Sanctions, Executive Orders. Implemented by Dep't of Treasury, Office of Foreign Assets Control.
- Last Amendment: 15 Mar 2019: <u>84 FR: 9456-9458</u>: List of Foreign Financial Institutions Subject to Correspondent Account or Payable-Through Account Sanctions (CAPTA List)
- * <u>USITC HARMONIZED TARIFF SCHEDULE OF THE UNITED STATES (HTS, HTSA or HTSUSA)</u>, 1 Jan 2019: 19 USC 1202 Annex. Implemented by U.S. International Trade Commission. ("HTS" and "HTSA" are often seen as abbreviations for the Harmonized Tariff Schedule of the United States Annotated, shortened versions of "HTSUSA".)
 - Last Amendment:
- 25 Mar 2019: Harmonized System Update 1904, contains 1,015 ABI records and 194 harmonized tariff records
- HTS codes for AES are available here.
- HTS codes that are not valid for AES are available here.

17. Weekly Highlights of the Daily Bugle Top Stories

(Source: Editor)

Review last week's top Ex/Im stories in "Weekly Highlights of the Daily Bugle Top Stories" published <u>here</u>.

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EDITORIAL POLICY

- * The Ex/Im Daily Update is a publication of FCC Advisory B.V., compiled by: Editor, James E. Bartlett III; Assistant Editors, Alexander P. Bosch and Vincent J.A. Goossen; and Events & Jobs Editor, Alex Witt. The Ex/Im Daily Update is emailed every business day to approximately 7,000 readers of changes to defense and high-tech trade laws and regulations. We check the following sources daily: Federal Register, Congressional Record, Commerce/AES, Commerce/BIS, DHS/CBP, DOE/NRC, DOJ/ATF, DoD/DSS, DoD/DTSA, FAR/DFARS, State/DDTC, Treasury/OFAC, White House, and similar websites of Australia, Canada, U.K., and other countries and international organizations. Due to space limitations, we do not post Arms Sales notifications, Denied Party listings, or Customs AD/CVD items.
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Message

From: Jim Bartlett, Full Circle Compliance [jebartlett@fullcirclecompliance.eu]

Sent: 3/26/2019 7:26:04 PM **To**: hartrl@state.gov

Subject: 19-0326 Tuesday "Daily Bugle"

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Tuesday, 26 March 2019

The Daily Bugle is a free daily newsletter from Full Circle Compliance, containing changes to export/import regulations (ATF, DOE/NRC, Customs, NISPOM, EAR, FACR/OFAC, FAR/DFARS, FTR/AES, HTSUS, and ITAR), plus news and events. Subscribe here for free subscription. Contact us for advertising inquiries and rates.

TEM S FROM FEDERAL REGISTER

[No items of interest noted today.]

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- 3. DHS/CBP Posts Harmonized System Update 1904
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- 5. State/DDTC: (No new postings.)
- 6. Singapore Customs Circulars of Interest: ASEAN Single Window

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other government sources

1. Items Scheduled for Publication in Future Federal Register Editions (Source: Federal Register)

* U.S. Customs and Border Protection; NOTICES; Agency Information Collection Activities; Proposals, Submissions, and Approvals: Country of Origin Marking Requirements for Containers or Holders [Pub. Date: 27 Mar 2019.]

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2. Commerce/BIS: Arnoldo Antonio Arredondo of Beaumont, TX, Denied Export Privileges for Ten Years (Source: Commerce/BIS, 26 Mar 2019.)

- * Respondent: Arnoldo Antonio Arredondo, Selmer, TN
- * Charges: On 28 November 2017, in the U.S. District Court for the Southern District of Texas, Arnoldo Antonio Arredondo ("Arredondo") was convicted of violating Section 38 of the Arms Export Control Act (22 U.S.C. § 2778 (2012)) ("AECA"). Arredondo was convicted of violating Section 38 of the AECA by conspiring and agreeing with others to knowingly and willfully export and cause to be exported, from the United States Munitions List, without the required U.S. Department of State licenses. Arredondo was sentenced to 46 months in prison, three years of supervised release, and an assessment of \$100.
- * Debarred: Denied export privileges for ten years from the date of Arredondo's conviction, until 28 November 2027.

* Date of Order: 25 Mar 2019

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3. DHS/CBP Posts Harmonized System Update 1904 (Source: CSMS #19-000160, 26 Mar 2019.)

Harmonized System Update (HSU) 1904 was created on March 25, 2019 and contains 1,015 ABI records and 194 harmonized tariff records.

This update contains changes made to support PGA message set functionality. Some, not all, of the associated HTS codes for composite wood products, flagged with an EP7 (TSCA certification 'may be required') code, are included.

In addition, adjustments include those made as a result of the USTR's Notice of Modification to Section 301 Action: China's Acts Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation. The

Notice can be found in the Federal Register dated March 25, 2019, Vol. 84 No. 57, page 11152. It can be retrieved <u>here</u>.

Modifications required by the verification of the 2019 Harmonized Tariff Schedule (HTS) are included as well.

The modified records are currently available to all ABI participants and can be retrieved electronically via the procedures indicated in the CATAIR. For further information about this process, please contact your client representative. For all other questions regarding this message, please contact Jennifer Keeling via email at Jennifer.L.Keeling@cbp.dhs.gov.

- Related CSMS No. <u>19-000082</u>, <u>19-000155</u>.

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4. DoD/DSCA Posts Policy Memo 19-18 (Source: DoD/DSCA, 26 Mar 2019.)

- * DSCA Policy Memo 19-18 Security Assistance Management Manual (SAMM) name change for Macedonia has been posted.
- On February 15, 2019, Macedonia was renamed the Republic of North Macedonia, as reflected by the U.S. Board of Geographic Names precipitated by ratification of the 2018 Prespa Agreement. Effective immediately, SAMM Table C4.T2A. Security Cooperation (SC) Customer and Regional Codes and FMS Eligibility (Regions), is updated to indicate the new name and maintain the historical reference to the former name.

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5. State/DDTC: (No new postings.)

(Source: State/DDTC)

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6. Singapore Customs Circulars of Interest: ASEAN Single Window

(Source: Singapore Customs, 25 Mar 2019.)

Singapore Customs has released the following document(s) on its website:

Notices

* Notice No: 03/2019: Updates to Customs Circular No. 15/2017 Live Operation of the ASEAN Single Window (ASW) for the Electronic Exchange of

Form D under the ASEAN Trade in Goods Agreement of the ASEAN Free Trade Area ("ATIGA")				
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· Egget NEWS				
7. Reuters: "U.S. Sanctions Firms Accused of Helping Fund Iran's Revolutionary Guards" (Source: Reuters, 26 Mar 2019.)				
The United States on Tuesday imposed fresh sanctions on a network of companies and people in Iran, Turkey and the United Arab Emirates it said was helping to raise billions of dollars to fund the operations of Iran's elite Revolutionary Guards.				
The U.S. Treasury blacklisted 25 people and organizations, including a clutch of front companies based in the three countries, that were working on behalf of Iran's Islamic Revolutionary Guards Corps (IRGC) and Iran's defense				

The targeted institutions include banks and other financial institutions such as Ansar Bank, Atlas Exchange, Iranian Atlas Company, the U.S. Treasury

ministry to raise money for their activities.

said in a statement. ...

"They created front companies to access the U.S. financial system on their own," said Hook, adding that Tehran was feeling the pressure from U.S. sanctions and created the network to look for a way around the restrictions.

He said the Ansar front companies had raised \$800 million over the last year and a half to buy military vehicles and to fund the IRGC's and Quds Force operations.

Additionally, Hook said the United States was sanctioning Iran's defense ministry "for its support for terrorism" and providing logistics support to the Revolutionary Guards.

A U.S. official said the sanctions were not related to the U.S. State Department's labeling of groups as so-called foreign terrorist organizations, known as FTOs. The defense ministry was blacklisted in 2007 for its role in weapons of mass destruction proliferation, Hook added. ...

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8. ST&R Trade Report: "Still No Exclusion Request Process for China List 3 Goods"

(Source: Sandler, Travis & Rosenberg Trade Report, 26 Mar 2019.)

The Trump administration has yet to comply with a congressional directive to allow requests for exclusions from the Section 301 additional tariffs for most of the Chinese goods subject to such tariffs. Companies interested in seeking such exclusions should consider backing legislation that would require the administration to accept requests.

Imports of so-called List 3 goods from China, with an annual import value of about \$200 billion, were assessed an additional 10 percent tariff as of Sept. 24, 2018. (Click here for a list of affected goods and details on all actions taken in this Section 301 case.) While the Office of the U.S. Trade Representative has accepted requests for tariff exclusions for List 1 (\$34 billion) and List 2 (\$16 billion) goods, it has not provided for exclusions for List 3 goods. Congress directed USTR to do so in an explanatory statement accompanying appropriations legislation signed into law in February and requested a report on the nature and timing of this process no later than March 17.

However, no such report has been submitted and USTR Robert Lighthizer has continued to assert that no exclusion process will be developed until tariffs on List 3 goods are increased from 10 percent to 25 percent. That was supposed to occur March 1 but in late February President Trump delayed it indefinitely.

In the meantime, lawmakers have <u>introduced legislation</u> that would require the establishment of a tariff exclusion request process for goods on List 3 and any future lists. As with the existing exclusion process for List 1 and List 2 goods, refunds could be sought for duties paid on any List 3 goods granted an exclusion. Additionally, efforts are underway to amend this legislation to include an appeals process for goods denied tariff exclusions, with the review possibly being conducted by the International Trade Commission.

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COMMENTARY

9. A. McGregor and C. Whitehouse: "What Are the Circumstances in Which Acting in Breach of EU Sanctions Will Kill a Claim?"

(Source: Reynolds Porter Chamberlain, 21 Mar 2019.)

* Authors: Andy McGregor, Esq., <u>andy.mcgregor@rpc.co.uk</u>, +44 20 3060 6188; and Christopher Whitehouse, Esq., <u>christopher.whitehouse@rpc.co.uk</u>, +44 20 3060 6024. Both of Reynolds Porter Chamberlain LLP.

An Iranian oil company was defrauded in a failed attempt to circumvent EU sanctions - does its claim survive the Patel v Mirza illegality test?

The Transaction

The claimant, Iranian Offshore Engineering and Construction Company or IOEC, was a contractor in the offshore oil and gas sector. In 2012, to purchase an oil rig it paid US\$87 million to a company established in the BVI and controlled by one of the defendants ("Dean"). Arrangements had been made for Dean to acquire the relevant oil rig from a Maltese subsidiary of the Romanian company Grup Servicii Petroliere SA ("GSP"). Ultimately Dean failed to acquire the relevant oil rig from GSP and IOEC's payment was misappropriated by several of the defendants including IOEC's managing Director at the time, Dr Taheri. As a result, IOEC brought proceedings for breach of fiduciary duty, knowing receipt, dishonest assistance, conspiracy and deceit.

The judge found in favor or IOEC in almost all respects. Dr Taheri had been central to the fraud and the other defendants in the proceedings had provided wide-ranging assistance.

Role of Sanctions in the Defense

As a final line of defense, some of the defendants argued that IOEC should not succeed due to the sanctions on trading with Iran in place at the time. They ran the argument that IOEC's claim arose from a contract which was prohibited by the regulation imposing the EU Iran sanctions regime (Regulation EU/267/2012, "the Regulation") in which IOEC was specifically identified (although it ceased to be a sanctioned entity by the time it issued proceedings). The effect of that regulation was for it to be prohibited for any person subject to it to sell, supply, transfer or export drilling equipment to IOEC. The defendants contended that the entire set of arrangements taken together was entered into for the purpose of circumventing the sanctions regime.

The judge found that the use of BVI-based Dean as an intermediary was an attempt to circumvent the sanctions regime so as to allow an EU company (GSP) to sell to a sanctioned Iranian entity. This brought into play considerations of illegality and of public policy, and required the court to ask itself whether such considerations defeated the otherwise good claims brought by IOEC.

To determine this, the court applied the test in the Supreme Court case of Patel v Mirza. That test requires the court to consider whether it would be contrary to the public interest to enforce a claim if to do so would be harmful to the integrity of the legal system. In assessing if the public interest would be harmed, the must court consider;

- the underlying purpose of the prohibition that has been breached,
- the relevant public policy on which the denial of the claim may have an impact and
- whether denial of an otherwise valid claim would be a proportionate response to the illegality.

On the basis of the points above and applying the criteria set out in Patel v Mirza, the judge considered that it would not be contrary to the public interest to enforce IOEC's relevant claims. The denial of those claims:

- would not enhance the purpose of the sanctions, given that enforcement of the claims would not provide IOEC with a rig, and the purpose of the prohibition was never to prevent the recovery of money obtained by fraud
- would adversely impact the public policy of preventing and deterring fraud and that of the victims of fraud being able to take steps to recover money and property of which they have been defrauded; and
 - would be a disproportionate response to any illegality involved.

The following factors were at the heart of the judge's assessment:

- (a) IOEC's claims were not to enforce the sale agreement with Dean and IOEC did not and would not actually obtain the GSP Fortuna
- (b) IOEC was not, by the date of issue of proceedings, a sanctioned entity and had the transaction taken place at the date it would not have involved a breach of the sanctions regime
- (c) IOEC's complaints related to serious wrongs, which were independent of the intended breach of the sanctions regime, which only provided the opportunity for them to take place.

Accordingly, IOEC's otherwise successful claims succeeded.

Comment

This case provides an interesting example of the extent to which entities complicit in the breach of EU sanctions are still able to bring legal proceedings relating to matters arising out of those breaches. However, it is difficult to draw any broad principles from this case given the specific factual circumstances.

Of particular interest is the judge's analysis that it was considered material that the relevant activity beaching sanctions at the time was no longer prohibited. This reasoning might be criticized in so far as it seems odd to evaluate the severity of illegality in retrospect rather than at the time it was committed. It is also curious that the judge omits explicit consideration in the judgment of the public interest in ensuring that EU sanctions are enforced.

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10. Johanna Reeves Testifies Before Congress on Proposed Revision of ITAR/USML Cats I, II, and III (Source: Editor) [Excerpts. See copy of full prepared testimony HERE.]

Testimony prepared for presentation by Johanna Reeves, Executive Director, F.A.I.R. Trade Group, to the U.S. House Committee on Foreign Affairs on March 26, 2019: "Proposed Small Arms Transfers: Big Implications for U.S. Foreign Policy"

Chairman Bera, Ranking Member Zeldin, and other distinguished members of the House Foreign Affairs Committee's Oversight and Investigations Subcommittee, thank you for inviting the F.A.I.R. Trade Group to testify today on this important issue of reform to our export control regulations, and the perceived impact such reform may have on our national security and foreign policy. ...

Almost a year ago, the Administration published the last in a series of proposed rules to reform the U.S. export control system; which reform initiative began in 2010 under the Obama Administration. The proposed rules that are at the heart of today's hearing are to transition commercially available firearms from the export controls of the U.S. Department of State's International Traffic in Arms Regulations (ITAR) to the controls of the U.S. Department of Commerce known as the Export Administration Regulations (EAR). It is interesting to note that when the Obama Administration launched the Export Control Reform (ECR) initiative, the ITAR U.S. Munitions List (USML) Categories I, II, and III, the Categories that control firearms and ammunition, were the first categories to be revised. The fact that the

rules were not rolled out until May 2018 does not make it a creation of President Trump.

Although no longer branded "ECR," the proposed rules to revise Categories I, II and III are a continuation of the U.S. Government's effort to modernize U.S. export controls and better focus ITAR controls over those weapons or articles that are inherently for military use or that provide the United States with a critical military or intelligence advantage. The purpose of the proposed revisions to the USML is to adjust the scope of the Department of State's jurisdiction to focus on those weapons or articles that are inherently for military use, or that provide the United States with a critical military or intelligence advantage. All other items will transition to the export controls of the Department of Commerce, as has happened for all previously implemented reform efforts. What is being proposed for USML Categories I, II, and III is nothing new.

Since the publication of the proposed rules for USML Categories I, II, and III, there has been a plethora of misinformation and mischaracterizations of the proposed rules. Indeed, these distortions, many of which are politically motivated, have given rise to the current attempts to prevent the President from exercising authority which Congress originally granted under the Arms Export Control Act. The fact is, the proposed transition rules are not a decontrol over the manufacture, transfer, or export of firearms or ammunition. The proposed changes are an effort to reform outdated regulations and right-size our export control system. The proposed shift in oversight responsibility is long overdue and will help strengthen the national security of the United States by ensuring that export licensing authorities can focus on those items that warrant control under the ITAR rather than waste resources on export licensing for springs and bolts for items that are abundant throughout the world. In addition, this reform is absolutely necessary to ensure "America's ability to engage effectively with the rest of the world and keep our most sensitive technology away from those who would do us harm."

These are not my words. These are the words of Defense Secretary Gates in 2010, when President Obama issued the directive to overhaul the overly complicated U.S. export controls system, a system with too many redundancies to effectively support the national security and foreign policy interests of the United States. By modernizing U.S. export controls, we could more effectively account for emerging critical technologies, whose exports would be subject to closer scrutiny than those items readily available at Walmart or hardware stores.

Items that Have Already Transitioned from State to Commerce Export Controls

Since the Obama Administration first rolled out ECR in 2010, several items once classified as defense articles and subject to ITAR licensing controls of the Department of State have moved over to the licensing controls of the Department of Commerce. The following USML categories were revised under the Obama Administration:

- Launch vehicles and missiles;
- Explosives and propellants
- Vessels of War
- Tanks and military vehicles
- Military aircraft
- Training equipment
- Personal protective equipment
- Military electronics
- Fire control
- Toxicological agents
- Spacecraft and satellites
- Nuclear weapons
- Directed energy weapons
- Gas turbine engines
- Submersible vessels

The list of items that have already moved off the U.S. Munitions List and over to the Commerce Control List is extensive. Every single one of these items is subject to the same set of controls that commercially available firearms and ammunition would be, including the treatment of information published on the Internet.

Military Weapons Will Stay Controlled Under ITAR

Under the proposed transition rules, military weapons will remain under the State Department licensing authority. As I stated earlier, fully automatic firearms will remain under USML Category I. A fully automatic firearm includes those firearms that have the option to select either a semiautomatic function, a two or three-round burst function (in other words it fires two or three rounds with a single pull of the trigger), and also a fully automatic function. These firearms, known as "select-fire" firearms, are well recognized as military weapons. These should not be confused with purely semi-automatic firearms. To that end, some argue the AR15 rifle, a purely semi-automatic rifle, is a military-style weapon. It is not, and it should not be conflated with a rifle that has full automatic capabilities. AR15-type rifles are not used in the military, and to say there is little difference between a semi-automatic firearm and a fully automatic firearm is disingenuous. Congress itself recognized this substantial difference when it established the National Firearms Act of 1934, which imposed significant restrictions on civilian possession of fully automatic firearms, but not on semi-automatic firearms.

While it is true that soldiers in combat may use fully automatic firearms in semi-automatic mode, this is dependent on the situation and threat level. In close quarters, the military trains shooters to engage targets with controlled pairs (two shots). If fire suppression is needed, then full auto is more effective at keeping the enemy down and permits freedom of movement by friendly forces. The use of semi or single shot or controlled pair is more prevalent but it is mostly a matter of ammunition consumption so as not to waste ammunition. For the soldier, the full auto option offers reassurance

and a tactically sound choice. It provides lethality overmatch and makes a smaller fighting force more effective.

The AR15, a sporting rifle that has been widely available on the commercial market since 1963, cannot and must not be grouped in the same category as the assault weapon described above. The semi-automatic AR15 (or other model) rifle does not have the design features that allows it to accept a full automatic sear that changes its design into a machinegun capable of shooting automatically. Indeed, the current effort to reform our export control laws will allow the U.S. Government to focus more on controlling true military assault weapons.

Domestic Controls over Firearms and Ammunition

Any reforms to our export control system will not affect in any way domestic controls over firearms and ammunition. The Bureau of Alcohol, Tobacco, Firearms and Explosives is the agency in charge of enforcing the Gun Control Act and the National Firearms Act, and these statutes will continue to regulate the manufacture, transfer and possession of firearms and ammunition.

ATF controls over firearms in the United States extends to 3-D printed guns. The Gun Control Act prohibits the manufacture, import, sale, shipment, delivery, possession, transfer and receipt of any handgun that is undetectable by x-ray machines commonly used at airports. Violations of this statute are punishable by up to five years imprisonment and a fine of \$250,000. The last time this prohibition was due to sunset in 2013, Congress passed a renewal unanimously by voice vote.

U.S. Department of Commerce Export Controls

(1) Export License Requirements. It is important to remember that not all firearms and ammunition are slated to transition to Commerce controls. The firearms that will remain under the Department of State are those that are inherently military, including fully automatic firearms, regardless of the caliber, fully automatic shotguns, magazines and drums with a capacity of 50 rounds or greater, and all specially designed parts and components therefor. The types of ammunition that will remain with the Department of State include ammunition pre-assembled into links or belts, and projectiles with a core or projectile produced from tungsten, steel, or beryllium copper alloys (also referred to as armor piercing ammunition).

Contrary to many of the objections that have been voiced about the proposed rules, the transition of firearms and ammunition from State Department's oversight to the Department of Commerce's control will NOT result in a decontrol or a deregulation of these articles. Firearms transitioning to the Department of Commerce will be subject to licensing controls under National Security, Regional Stability, Crime Control and Detection, the Firearms Convention, United Nations Sanctions, and Anti-Terrorism. Indeed, the proposed rules make it abundantly clear that the Commerce Department will require U.S. Government authorization to export

or reexport firearms or ammunition transitioning from the USML to ANY country, including Canada. The transition will not result in the unlicensed export of firearms and ammunition.

It must be emphasized that the proposed changes are to license processing, NOT POLICY. End-use monitoring will continue, including vetting of potential end-users, and contrary to popular belief, the State Department, as well as the Department of Defense will remain very involved in the review of export license applications for national security and foreign policy reasons. Commerce Department will continue to staff license requests to executive agencies for review, just as State Department has done under ITAR. Of course, we must not forget the fact that the Commerce Department, like the State Department today, will not approve any license application if the export will violate the laws of the destination country.

(2) Office of Export Enforcement. Another myth is that the Department of Commerce does not have the capability to control firearms or ammunition exports, or has looser licensing rules and procedures. In reality, the Department of Commerce has an arsenal of tools it can use, and indeed does use already to effectively control exports and enforce against export violations, including those that have not yet occurred. The Department of Commerce, Bureau of Industry and Security (BIS) Export Enforcement consists of the Office of Export Enforcement (OEE), the Office of Enforcement Analysis (OEA), and the Office of Antiboycott Compliance (OAC). The overarching mission is to protect the U.S. national security, homeland security, foreign policy and economic interests through a law enforcement program focused on: sensitive exports to hostile entities or those that engage in onward proliferation; prohibited foreign boycotts; and related public safety laws. BIS's Export Enforcement is an elite law enforcement organization recognized for its expertise, professionalism, integrity, and accomplishments. It accomplishes its mission through preventative and investigative enforcement activities and then, pursuing appropriate criminal and administrative sanctions against export violators.

In particular, the Office of Export Enforcement is dedicated to protecting U.S. national security, foreign policy, and economic interests by investigating violations, prosecuting violators of export control laws, interdicting illegal exports, and educating parties to export transactions on how to improve export compliance practices. To accomplish this, OEE Special Agents work with Commerce Department licensing officials and policy staff to deter the export of items which, in the hands of unreliable users, can prove damaging to U.S. national security and foreign policy interests.

Noteworthy is the fact that Commerce enforcement of export controls is carried out by Special Agents, sworn federal officers with "authority to bear firearms, make arrests, execute search warrants, serve subpoenas, detain and seize items about to be illegally exported, and order the redelivery to the United States of items exported in violation of U.S. law." Indeed, OEE is the only federal law enforcement agency exclusively dedicated to the enforcement of export control laws, specifically the EAR, and it works closely

with the Department of Justice to prosecute criminal violations, and with the Office of Chief Counsel for Industry and Security for civil enforcement cases. Under the ITAR, the State Department's Office of Defense Trade Controls Compliance investigates export violations. This office is comprised of Compliance Specialists who are not law enforcement officers. What does this all mean? Stated plainly, this means that the Commerce Department already has in place the resources to send special agents to investigate suspected violations of the EAR. And they do. This includes investigating suspected export violations by U.S. persons, as well as suspected unauthorized reexports or transfers by foreign persons. As outlined on OEE's website, OEE Special Agents also conduct end use checks to confirm items are being used in accordance with any license conditions, as well as to assess the suitability of foreign end-users to receive U.S.-origin licensed goods and technology, assess prospective end-users on pending license applications for diversion risk, and conduct educational outreach to foreign trade groups.

In a recent Commerce publication, Don't Let This Happen To You (Nov. 2018), in fiscal year 2017, BIS investigations led to the criminal convictions of 31 individuals and businesses for export violations with penalties of over \$287 million in criminal fines, more than \$166 million in forfeitures, and 576 months of imprisonment. In addition, OEE and BIS's Office of Chief Counsel completed 52 administrative export matters, resulting in over \$692 million in civil penalties." In contrast, in 2017 and 2018 combined the U.S. Department of State, Directorate of Defense Trade Controls (DDTC) issued only two consent agreements.

Fostering Competitiveness of the American Manufacturer

Another unfortunate truth of our current export control system is the unintended harm on our ability to provide weapons to our allies. It is no secret that many foreign governments restrict bidding on supply contracts to non-ITAR-controlled product. This affects U.S. manufacturers from being able to sell firearms and firearm components, all controlled under the ITAR. To illustrate, let me draw your attention to a French tender for semi-automatic pistols. Although it does not specifically reference "ITAR-free," the governing French legislation requires the applicant offer:

- (1) A certification according to which the offeror will be able to meet all obligations in terms of export, import, transfer and transit of defense articles related to the awarded contract, including those obligations contained in any other document related to such tender; and
- (2) The indication of any restrictions resulting from any security or exportcontrol regime applicable to such offeror and/or its defense articles or services and which affects the disclosure, transfer and/or usage of such defense articles and/or defense services (i.e. maintenance services, product support services, etc.).

The legislation does not cite to the ITAR precisely. However, because of the inherent controls of the ITAR that affect all U.S.-origin defense articles and services, especially in terms of prior export license and the required prior approvals from the Department of State for reexports or retransfers, the

above provisions of the French legislation nearly eliminate any chance for success in proposing US-origin ITAR-controlled defense articles and/or services in response to this tender (and to any tender for defense articles and services issued by the French Government). On the contrary, this situation does not replicate among E.U. Member States to the extent that, E.U. member states have agreed to principles of mutual trust and reciprocity between the Member States' export control policies and procedures for the defense sector so that once delivered to one Member State, defense articles and/or services from another Member State are controlled onward only by the recipient Member State export control policies and procedures.

Another example is the restriction on countries sourcing product made with U.S. - origin components and parts. The ITAR restrictions on reexport attach to each defense article, so that even for ITAR-controlled parts and components that are incorporated into a non-U.S. end-item, the end-item becomes subject to the ITAR requirement for advance U.S. Government approval for nearly all reexports. At this time, all firearm parts and components and accessories are subject to ITAR export and reexport controls, with very few exceptions. Regardless of the size of the part, whether it be a bolt or a spring, or a barrel or a receiver, the part is subject to ITAR restrictions on reexports. In many cases, the process for obtaining such reexport approval has resulted in significant and even detrimental delays, even when the reexport is for ally governments.

Consequently, there is a push to reduce U.S.-made components from defense products so as not to be burdened with the reexport restrictions under ITAR. Our allies are shunning U.S. products because of ITAR, both because of unreliable delivery and the inability to reexport. The result is they source their products from other countries, including Russia and China. This poses a significant threat to our national security, because not only is the U.S. removed from the immediate supply chain (including potential U.S. government oversight thereof), but long term we are isolated from the replacement and repair market. This has very significant consequences on the American defense sector, not the least of which is the firearms and ammunition manufacturers.

Conclusion

Because of the age and wide-scale availability of the underlying technology, most firearms do not possess characteristics or parameters that provide a critical military advantage to the United States, nor are firearms exclusively available from the United States. In fact, it is these points that make the current system of export controls particularly harmful to U.S. industry, and indeed U.S. national security because of global competition and the inability of U.S. firearms companies to compete with foreign sources. The policies and regulations currently in place have not prevented firearms or the related technology from going to restricted places. Indeed, to our detriment they have only prevented the U.S. firearms industry from becoming reliable suppliers to our NATO and non-NATO allies, and in general competing effectively in the global market place. Similar to the challenges faced by other defense industries, the firearms trade has been negatively

impacted by the incentives of foreign companies and governments to avoid U.S.-origin firearms. Our inability to effectively compete globally will undermine our firearms manufacturing base by inducing U.S. companies to move production offshore. This will affect jobs and domestic production levels, thus weakening the US Defense Industrial base. ...

We urge Congress to permit the right-sizing of the longstanding one-size-fits-all export policy for firearms and ammunition, and allow the firearms and ammunition sector to be regulated as other defense sectors are. This reform will not result in the decontrol of firearms or ammunition, and is critical to the positioning of our manufacturers in the world market and thus our national security. It is time to control exports of firearms and ammunition as we do all other sectors in the defense industry, and we look to this Committee to ensure this occurs. ...

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11. K. Lampe and T. Lateef: "What Does a No-Deal Brexit Mean for any Future UK Sanctions Regime?" (Source: Freshfields Bruckhaus Deringer, 25 Mar. 2019)

* Authors: Kristin Lampe, Esq., and Tahleel Lateef, Esq.. Both of Freshfields Bruckhaus Deringer LLP.

(1) No immediate change

Following Brexit, the UK will retain its existing sanctions regime. Sanctions currently in place before Exit Day will be implemented in the UK either by the EU (Withdrawal) Act 2018 (*the Withdrawal Act*) or under new regulations created by the Sanctions and Anti-Money Laundering Act 2018 (*SAMLA*).

The Withdrawal Act carries across EU law into UK law, and enables the Government to address any deficiencies by enacting new statutory instruments. In contrast, SAMLA creates a free standing and unilateral power for the UK to impose its own sanctions.

The combined purpose of these Acts is to ensure continuity between the existing EU and new UK sanctions regimes.

(2) Sanctions powers come home

As an EU member state, the UK's power to impose domestic sanctions is limited to certain anti-terrorism related measures.

Except certain UN measures, all other sanctions currently in effect in the UK are imposed by EU law and have direct effect in the UK under the 1972 European Communities Act, which is set to be repealed by the Withdrawal Act on Exit Day.

Post-Brexit, the UK will be free to impose unilateral sanctions that are not in line with those of the EU. Only time will tell whether the <u>Treasury Committee's reference</u> to "flexible" sanctions means a more onerous and extensive UK regime. If Brexit is delayed (or if the UK ends up staying in the EU) it remains to be seen how the UK's powers under SAMLA will interact with the EU's Common Foreign and Security Policy.

(3) Existing financial sanctions licenses remain valid, for now

The Office of Financial Sanctions Implementation (*OFSI*) has updated its "<u>Post-EU" guidance</u> to confirm that any existing financial sanctions licenses issued by the Treasury will remain valid until they expire, are revoked or are replaced by a license under the UK's new, post-Brexit regime. This indicates that business can continue as usual immediately following Brexit.

Looking ahead, the UK will no longer have to follow the EU regime on sanctions authorizations and exemptions, and new authorizations will be granted under SAMLA. It will be important for businesses to continue to monitor changes to UK sanctions in case these impact on existing licenses and to track any differences between the SAMLA and the EU retained law regimes.

Two steps businesses can take to prepare for a no-deal Brexit:

(1) Broaden approach to sanctions law compliance:

Currently, the UK and EU sanctions regimes are aligned, so compliance with one typically equates to compliance with the other. Post-Brexit this will no longer be guaranteed.

In the future, the UK could be more stringent than its European counterparts, particularly regarding counter-terrorism-related asset freezes. For example, the <u>recent proscription of Hezbollah</u> (including its political wing) as a "Terrorist Organization" could, in the weeks following Brexit, be bolstered by a corresponding asset-freeze measure under the UK's new counter-terrorism sanctions powers.

(2) Review existing UK financial sanctions licenses used to carry out European activities:

The question remains of whether financial sanctions licenses granted by UK authorities will continue to be recognized by the EU in a no-deal scenario. To date, there has been no official announcement from the EU clarifying this issue, or on more general cooperation between the UK and EU on sanctions alignment and enforcement post-Brexit.

As the final countdown to a potential no-deal Brexit continues, it is important for businesses to review any UK financial sanctions licenses used to conduct European activities and ensure that such licenses continue to be effective in the future.

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12. V. Gilinski and H. Sokolski: "America's Nuclear Export Controls are Fundamentally Flawed" (Source: The National Interest, 25 Mar 2019.) [Excerpts.]

* Authors: Victor Gilinski, Program Advisor for the Nonproliferation Policy Education Center (NPEC), and Henry Sokolski, Executive Director of NPEC, info@npolicy.org, +1 571-970-3187.

Washington must identify countries or regions that ought to not receive significant nuclear goods or technology, starting with the Middle East.

Congressional battles over U.S. nuclear exports revolve around terms in civil cooperation agreements intended to protect against their diversion to military uses. The latest example is the whether the proposed agreement with the Kingdom of Saudi Arabia should include a bar to uranium enrichment. It definitely should, but is this enough to keep the kingdom from making bombs?

The question applies not only to the kingdom. The civil cooperation agreements with importers are the legal basis of American trade in nuclear technology. The fundamental requirement, the sine qua non, is that such exports be subject to periodic inspection by the International Atomic Energy Agency (IAEA). There are generally additional conditions concerning the disposition of produced plutonium and production of enriched uranium. Such agreements make sense among countries with a history of observing their international commitments. ...

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EX/IM TRAINING EVENTS & CONFERENCES

13. ECS Presents "Mastering ITAR/EAR Challenges" on 30 Apr - 1 May in Nashville, TN

(Source: Suzanne Palmer, spalmer@exportcompliancesolutions.com)

- * What: Mastering ITAR/EAR Challenges; Nashville, TN
- * When: April 30-May 1, 2019
- * Where: Renaissance Nashville Hotel
- * Sponsor: Export Compliance Solutions (ECS)

- * ECS Speaker Panel: Suzanne Palmer; Lisa Bencivenga; Timothy Mooney, Debi Davis, Matthew McGrath, Matt Doyle
- * Register <u>here</u> or by calling 866-238-4018 or email spalmer@exportcompliancesolutions.com

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14. ICPA Presents "2019 EU Conference", 15-17 May in London

(Source: ICPA)

- * What: 2019 EU Conference
 - Import and Export Track (click <u>here</u> for the agenda)
 - Professional Speakers
- Hot Industry Topics
 * When: 15-17 May 2019
- * When: 15-17 May 2019
- * Where: The Tower Hotel, London, United Kingdom.
- * Sponsor: International Compliance Professionals Association (ICPA)
- * Information & Registration: Click here.

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EDITORSNOTES

15. Bartlett's Unfamiliar Quotations (Source: Editor)

- * **Robert Frost** (Robert Lee Frost; 26 Mar 1874 29 Jan 1963; was an American poet. His work was initially published in England before it was published in America. Known for his realistic depictions of rural life and his command of American colloquial speech, Frost frequently wrote about settings from rural life in New England in the early twentieth century, using them to examine complex social and philosophical themes. Frost was honored frequently during his lifetime, receiving four Pulitzer Prizes for Poetry.)
- "By working faithfully eight hours a day you may eventually get to be boss and work twelve hours a day."
- "Education is the ability to listen to almost anything without losing your temper or your self-confidence."
- * **A. E. Housman** (Alfred Edward Housman; 26 Mar 1859 30 Apr 1936; was an English classical scholar and poet, best known to the general public for his cycle of poems, *A Shropshire Lad.* Lyrical and almost epigrammatic in form, the poems wistfully evoke the dooms and disappointments of youth in

the English countryside. Housman was one of the foremost classicists of his age, and has been ranked as one of the greatest scholars who ever lived. He established his reputation publishing as a private scholar and, on the strength and quality of his work, was appointed Professor of Latin at University College London and then at the University of Cambridge. His editions of Juvenal, Manilius and Lucan are still considered authoritative.)

- "Great literature should do some good to the reader: must quicken his perception though dull, and sharpen his discrimination though blunt, and mellow the rawness of his personal opinions."
 - "And malt does more than Milton can to justify God's ways to man."

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16. Are Your Copies of Regulations Up to Date? (Source: Editor)

- * <u>DHS CUSTOMS REGULATIONS</u>: 19 CFR, Ch. 1, Pts. 0-199. Implemented by Dep't of Homeland Security, U.S. Customs & Border Protection.
- Last Amendment: 12 Mar 2019: <u>84 FR 8807-8809</u>: Extension of Import Restrictions Imposed on Archaeological and Ecclesiastical Ethnological Material From Honduras
- * <u>DOC EXPORT ADMINISTRATION REGULATIONS (EAR)</u>: 15 CFR Subtit. B, Ch. VII, Pts. 730-774. Implemented by Dep't of Commerce, Bureau of Industry & Security.
- Last Amendment: 20 Dec 2018: <u>83 FR 65292-65294</u>: Control of Military Electronic Equipment and Other Items the President Determines No Longer Warrant Control Under the United States Munitions List (USML); Correction [Concerning ECCN 7A005 and ECCN 7A105.]
- * DOC FOREIGN TRADE REGULATIONS (FTR): 15 CFR Part 30. Implemented by Dep't of Commerce, U.S. Census Bureau.
- Last Amendment: 24 Apr 2018: <u>83 FR 17749-17751</u>: Foreign Trade Regulations (FTR): Clarification on the Collection and Confidentiality of Kimberley Process Certificates
 - HTS codes that are not valid for AES are available here.
- The latest edition (1 Jan 2019) of *Bartlett's Annotated FTR* ("BAFTR"), by James E. Bartlett III, is available for downloading in Word format. The BAFTR contains all FTR amendments, FTR Letters and Notices, a large Index, and approximately 250 footnotes containing case annotations, practice tips, Census/AES guidance, and explanations of the numerous errors contained in the official text. Subscribers receive revised copies in Microsoft Word every time the FTR is amended. The BAFTR is available by annual subscription from the Full Circle Compliance website. BITAR subscribers are entitled to a 25% discount on subscriptions to the BAFTR. Government employees (including military) and employees of universities are eligible for a 50% discount on both publications at www.FullCircleComplance.eu.

- * DOD NATIONAL INDUSTRIAL SECURITY PROGRAM OPERATING MANUAL (NISPOM): DoD 5220.22-M. Implemented by Dep't of Defense.
- Last Amendment: 18 May 2016: <u>Change 2</u>: Implement an insider threat program; reporting requirements for Cleared Defense Contractors; alignment with Federal standards for classified information systems; incorporated and cancelled Supp. 1 to the NISPOM (Summary <u>here</u>.)
- * <u>DOE ASSISTANCE TO FOREIGN ATOMIC ENERGY ACTIVITIES</u>: 10 CFR Part 810; Implemented by Dep't of Energy, National Nuclear Security Administration, under Atomic Energy Act of 1954.
- Last Amendment: 23 Feb 2015: <u>80 FR 9359</u>, comprehensive updating of regulations, updates the activities and technologies subject to specific authorization and DOE reporting requirements. This rule also identifies destinations with respect to which most assistance would be generally authorized and destinations that would require a specific authorization by the Secretary of Energy.
- * DOE EXPORT AND IMPORT OF NUCLEAR EQUIPMENT AND MATERIAL; 10 CFR Part 110; Implemented by Dep't of Energy, U.S. Nuclear Regulatory Commission, under Atomic Energy Act of 1954.
 - Last Amendment: 20 Nov 2018, 10 CFR 110.6, Re-transfers.
- * <u>DOJ ATF ARMS IMPORT REGULATIONS</u>: 27 CFR Part 447-Importation of Arms, Ammunition, and Implements of War. Implemented by Dep't of Justice, Bureau of Alcohol, Tobacco, Firearms & Explosives.
- Last Amendment: 14 Mar 2019: <u>84 FR 9239-9240</u>: Bump-Stock-Type Devices
- * <u>DOS INTERNATIONAL TRAFFIC IN ARMS REGULATIONS (ITAR)</u>: 22 C.F.R. Ch. I, Subch. M, Pts. 120-130. Implemented by Dep't of State, Directorate of Defense Trade Controls.
- Last Amendment: 19 Mar 2019: <u>84 FR 9957-9959</u>: Department of State 2019 Civil Monetary Penalties Inflationary Adjustment.
- The only available fully updated copy (latest edition: 19 Mar 2019) of the ITAR with all amendments is contained in *Bartlett's Annotated ITAR* ("BITAR"), by James E. Bartlett III. The BITAR contains all ITAR amendments to date, plus a large Index, over 800 footnotes containing amendment histories, case annotations, practice tips, DDTC guidance, and explanations of errors in the official ITAR text. Subscribers receive updated copies of the BITAR in Word by email, usually revised within 24 hours after every ITAR amendment. The BITAR is available by annual subscription from the Full Circle Compliance website. BAFTR subscribers receive a \$25 discount on subscriptions to the BITAR, please contact us to receive your discount code.
- * <u>DOT FOREIGN ASSETS CONTROL REGULATIONS (OFAC FACR)</u>: 31 CFR, Parts 500-599, Embargoes, Sanctions, Executive Orders. Implemented by Dep't of Treasury, Office of Foreign Assets Control.
- Last Amendment: 15 Mar 2019: <u>84 FR: 9456-9458</u>: List of Foreign Financial Institutions Subject to Correspondent Account or Payable-Through Account Sanctions (CAPTA List)

- * USITC HARMONIZED TARIFF SCHEDULE OF THE UNITED STATES (HTS, HTSA or HTSUSA), 1 Jan 2019: 19 USC 1202 Annex. Implemented by U.S. International Trade Commission. ("HTS" and "HTSA" are often seen as abbreviations for the Harmonized Tariff Schedule of the United States Annotated, shortened versions of "HTSUSA".)
 - Last Amendment:

25 Mar 2019: Harmonized System Update 1904, contains 1,015 ABI records and 194 harmonized tariff records

- HTS codes for AES are available here.
- HTS codes that are not valid for AES are available <u>here</u>.

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17. Weekly Highlights of the Daily Bugle Top Stories (Source: Editor)

Review last week's top Ex/Im stories in "Weekly Highlights of the Daily Bugle Top Stories" published <u>here</u>.

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EDITORIAL POLICY

- * The Ex/Im Daily Update is a publication of FCC Advisory B.V., compiled by: Editor, James E. Bartlett III; Assistant Editors, Alexander P. Bosch and Vincent J.A. Goossen; and Events & Jobs Editor, Alex Witt. The Ex/Im Daily Update is emailed every business day to approximately 7,000 readers of changes to defense and high-tech trade laws and regulations. We check the following sources daily: Federal Register, Congressional Record, Commerce/AES, Commerce/BIS, DHS/CBP, DOE/NRC, DOJ/ATF, DoD/DSS, DoD/DTSA, FAR/DFARS, State/DDTC, Treasury/OFAC, White House, and similar websites of Australia, Canada, U.K., and other countries and international organizations. Due to space limitations, we do not post Arms Sales notifications, Denied Party listings, or Customs AD/CVD items.
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Message

From: Miller, Michael F [Millermf@state.gov]

Sent: 3/27/2019 8:53:51 PM

To: svcSMARTCrossL [svcSMARTCrossLowAA@state.gov]

Subject: Senator Menendez Letter to SecState on Hold on CAT I-III Transfer

Attachments: 02-22-19 Menendez Letter on Hold on CAT I-III Transfer.pdf

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TOM UDALL, NEW MEXICO
CHRISTOPHER MURPHY, CORNECTICUT
TIM KAINE, VIRGINIA
EDWAND J. MARKEY, MASSACHOSETTS
JEFF MERKLEY, OREGON
CORY A. SOOVER, NEW JERSEY

United States Senate

COMMITTEE ON FOREIGN RELATIONS
WASHINGTON, DC 20510-6225

February 22, 2019

The Honorable Mike Pompeo Secretary of State U.S. Department of State 2201 C Street, N.W. Washington, D.C. 20520

Dear Secretary Pompeo:

On February 4, 2019, I received a congressional notification from the Department for a proposal to transfer responsibility for the export control of firearms and ammunition from the United States Munitions list (USML) to the Commerce Control List (CCL). I write to inform you that I am placing a hold on the congressional notification, pursuant to the authority of Section 38(f) of the Arms Export Control Act (AECA).

I am deeply concerned about this proposed transfer. As you no doubt are aware, firearms and ammunition – especially those derived from military models and widely used by military and security services – are uniquely dangerous. They are easily modified, diverted, and proliferated, and are the primary means of injury, death, and destruction in civil and military conflicts throughout the world. As such, they should be subject to more, not less, rigorous export controls and oversight.

Combat rifles, including those commonly known as "sniper rifles," should not be removed from the USML, nor should rifles of any type that are U.S. military-standard 5.56 (and especially .50 caliber). Semi-automatic firearms should also not be removed, and neither should related equipment, ammunition, or associated manufacturing equipment, technology, or technical data.

Consequently, my hold will remain in place until such time as the issues identified below are sufficiently addressed.

1) Removal of Firearms Exports from Congressional Information and Review
The AECA enables congressional review of exports of lethal weapons to ensure that they comport with U.S. foreign policy interests. Congress took action in 2002 to ensure that the sale and export of these weapons would receive stringent oversight, including by amending the AECA to set a lower reporting threshold (from \$14 million to \$1 million) specifically for firearms on the USML. Moving such firearms from the USML to the CCL would directly

contradict congressional intent and effectively eliminate congressional oversight and potential disapproval of exports of these weapons. Congressional oversight must be retained.

2) Proliferation of 3D Gun Printing Technical Information

There is a serious risk that this transfer will open the floodgates of information for the 3D printing of nearly-undetectable firearms and components by foreign persons and terrorists that intend to harm U.S. citizens and interests. The Department of Commerce claims that it cannot, by its own regulations, prevent the publication, including on the Internet for global consumption, of technical information and blueprint files that would enable this 3D production, if such information has once been published, even illegally. This is outrageous and simply unacceptable given the dangers it poses to U.S. citizens and interests.

Moreover, it may also be at variance with recent law. Section 1758 of the Export Control Reform Act of 2018 authorizes the Secretary of Commerce to control "emerging and foundational technologies" that (A) are essential to the national security of the United States; and (B) are not critical technologies described in clauses (i) through (v) of section 721(a)(6)(A) of the Defense Production Act of 1950. 3D printing has been identified by this Administration as an emerging technology of concern, and the Department of Commerce itself used 3D printing as an example of "emerging technology" in its November 19, 2018 Federal Register notice seeking public comment on what constitutes emerging technologies pursuant to this new statutory charge. Then-Secretary of Defense Mattis twice mentioned the challenges of 3D printing in congressional testimony, and Director of National Intelligence Coats, in his 2018 Worldwide Threat Assessment of the U.S. Intelligence Community, stated that, "[a]dvances in manufacturing, particularly the development of 3D printing, almost certainly will become even more accessible to a variety of state and non-state actors and be used in ways contrary to our interests."

It would seem axiomatic that the capability to 3D-print lethal weaponry that cannot easily or reliably be detected by metal detectors at airports, schools, governmental or other facilities (including the U.S. Capitol and the Department of State) would qualify as an emerging technology in need of regulatory control. Yet, the Commerce Department has told my staff that the interagency process to identify emerging and foundational technologies to be controlled has not been completed, and is unlikely to be completed for months. By proceeding with the transfer of firearms, including 3D printing technical information, to Commerce, the Administration is acting recklessly and endangering innocent lives. It should go without saying that we collectively need to understand the threat and have a plan to address this issue before making the regulatory change.

Moreover, the Department of Commerce would seem to have adequate additional regulatory authority to control 3D gun printing information, at least temporarily. Commerce can control any item for foreign policy reasons under the miscellaneous category of 0Y521, according to a final rule issued by Commerce in 2012. Preventing foreign terrorists and thugs from acquiring

the means to print undetectable guns to use against U.S. citizens is a sufficient foreign policy justification to control this technology from public release.

Ultimately, the specific provision of the Export Administration Regulations is cited as preventing Commerce from controlling the publication of 3D Printed guns in the longer term needs to be rewritten to permit this control. Until that occurs, or until Commerce determines that such technical information can and will be controlled, this technical information cannot and should not be transferred from USML to the CCL.

I look forward to your prompt response to my concerns.

Sincerely,

Robert Mehendez

Ranking Member

CC: The Honorable Wilbur Ross, U.S. Secretary of Commerce

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Message

From: Kottmyer, Alice M [KottmyerAM@state.gov]

Sent: 3/29/2019 4:53:34 PM

To: Heidema, Sarah J [HeidemaSJ@state.gov]; Monjay, Robert [MonjayR@state.gov]; Hart, Regina A [HartRA@state.gov]

CC: Kottmyer, Alice M [KottmyerAM@state.gov]

Subject: Cat I, II, III

Just FYI, and possibly something you already knew:

Alice

Message

From: Monjay, Robert [MonjayR@state.gov]

Sent: 3/29/2019 10:36:17 PM

To: Charles Willson [Charles Willson@fd.org]

Subject: RE: Status of Amendment to ITAR: Revision of U.S. Munitions List Categories I, II, and III

Mr. Wilson,

We have not yet published a final rule implementing the proposal from May 2018. We notified the final rule to congress this winter. The next step would be to publish it this spring or summer.

Thanks Rob

Official

UNCLASSIFIED

From: Charles Willson < Charles_Willson@fd.org>

Sent: Thursday, March 28, 2019 8:40 AM **To:** Monjay, Robert < MonjayR@state.gov>

Subject: Status of Amendment to ITAR: Revision of U.S. Munitions List Categories I, II, and III

Good morning,

Has this rule change, proposed May, 2018, taken effect? If yes, please let me know the date that it went into effect.

Thank you for your assistance.

Regards,

Chuck Willson

Charles F. Willson Assistant Federal Defender Federal Defender's Office 10 Columbus Boulevard, 6th Floor Hartford, CT 06106 860-256-0313 Charles Willson@fd.org

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Case 2:20-cv-00111-RAJ Document 106-13 Filed 09/23/20 Page 53 of 378

Message

Dearth, Anthony M [DearthAM@state.gov] From:

3/30/2019 12:39:24 AM Sent:

PM-DDTC-Directors-DL [PM-DDTC-Directors-DL@state.gov] To:

CC: Miller, Michael F [Millermf@state.gov]

Fw: WTTLonline 04-01-19 Subject: Attachments: WTTLonline_04-01-19.pdf

V/R, Tony

Anthony M. Dearth Chief of Staff Directorate of Defense Trade Controls Original Message From: Meredith Gilston <mgilston@comcast.net>

Sent: Friday, March 29, 2019 8:37 PM

To: Dearth, Anthony M

Reply To: mgilston@comcast.net Subject: WTTLonline 04-01-19

Dear Colleague,

Attached is the April 1, 2019, issue of Washington Tariff & Trade Letter. This week's issue includes articles on:

- * USML Firearms Transfers Get Their Day in Congress
- * German Medical Firm Pays \$231 Million to Settle FCPA Charges
- * Grassley Working on One More 232 Tariff Bill
- * Tool Company Settles OFAC Iran Sanctions Charges * USTR Highlights Victories, Irritants in Annual Report
- * CIT Upholds Constitutionality of Section 232 Tariffs
- * WTO Rules in Decade-Long Boeing-Airbus Dispute
- * Briefs: Trade Figures, South Sudan, Syria

Sincerely,

Meredith Gilston Editor

Publisher: Martin Kalin 🔹 Editor: Meredith Gilston

Vol. 39, No. 13 April 1, 2019

USML Firearms Transfers Get Their Day in Congress

Despite a Senate hold and opposition from human rights groups, the transfers of firearms and ammunition from U.S. Munitions List (USML) categories I (firearms), II (guns and armament) and III (ammunition) to Commerce jurisdiction got their day in court March 26 at a House Foreign Affairs Committee oversight subcommittee hearing.

A month prior, Sen. Bob Menendez (D-N.J.) Feb. 26 cited congressional oversight and 3D printing of firearms when he put a "hold" on the transfers after receiving a 30-day formal 38(f) notice from State on the long-awaited rules (see **WTTL**, March 4, page 1). House progressives earlier introduced the Prevent Crime and Terrorism Act (H.R. 1134) to block the transfers.

University of Michigan Professor Susan Waltz, who is associated with Amnesty International, argued against the transfers, saying in her opening statement that the proposed rules' "bright line between fully automatic weapons on one hand, and semi- or non-automatic weapons on the other" is a "distinction without a difference." In response to statements about other USML items that have already moved to Commerce jurisdiction, she noted that firearms are the "only complete lethal weapons that are being transferred."

Gun industry groups in contrast are pushing for the publication of final rules. Our companies "will economically benefit because the regulatory simplification and cost reductions will allow them to consider exporting when they might not have otherwise. Those that already export will be able to expand sales of exports that would have otherwise been approved," Lawrence Keane, National Shooting Sports Foundation (NSSF) senior VP, wrote in a letter to the subcommittee that was entered into the record.

German Medical Firm Pays \$231 Million to Settle FCPA Charges

German medical device manufacturer Fresenius Medical Care (FMC) agreed March 29 to pay more than \$231 million to settle parallel Securities and Exchange Commission (SEC)

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April 1, 2019

and Justice charges of violating the Foreign Corrupt Practices Act (FCPA). FMC paid nearly \$30 million in bribes to government officials and others in Saudi Arabia, Morocco, Angola, Turkey, Spain, China, Serbia, Bosnia, Mexico and eight countries in West Africa to procure business between 2007 and 2016, the agencies charged.

Under the settlement, FMC agreed to pay \$147 million in disgorgement and interest to the SEC as well as an \$84.7 million criminal fine as part of a non-prosecution agreement (NPA) with Justice. "FMC employees and agents utilized the means and instrumentalities of U.S. interstate commerce, including the use of internet-based email accounts hosted by numerous service providers located in the United States. The company benefitted by over \$135 million as a result of the improper payments," the SEC order noted.

"FMC failed to promptly address numerous red flags of corruption in its operations that were known since the early 2000s. This includes employees making improper payments through a variety of schemes, including using sham consulting contracts, falsifying documents, and funneling bribes through a system of third party intermediaries," the order added.

"Although Fresenius voluntarily self-disclosed the misconduct in April 2012, the company did not timely respond to certain requests by the Department and, at times, did not provide fulsome responses to requests for information. In addition, misconduct occurred in 13 countries, yielded profits of more than \$140 million and continued in certain countries until 2016," Justice noted. Due to these factors, the company did not qualify for a declination under the Corporate Enforcement Policy, but was afforded a 40% reduction below the sentencing guidelines, the department said.

"We are pleased to have concluded these investigations and to have resolved the issues that we identified and voluntarily disclosed to the U.S. authorities. Since the investigation began we have taken extensive steps to further a culture of ethical business behavior throughout the entire company and to strengthen our compliance programs and internal controls," Fresenius CEO Rice Powell said in a statement.

Grassley Working on One More 232 Tariff Bill

Faced with competing bills introduced by fellow committee members, Senate Finance Committee Chairman Chuck Grassley (R-Iowa) is working to find a compromise bill to require congressional approval of the administration's use of Section 232 tariffs, primarily focused on steel and aluminum imports.

Sen. Pat Toomey (R-Pa.), Rep. Mike Gallagher (R-Wis.) and two dozen cosponsors introduced in January parallel bipartisan bills (H.R.940/S. 287) (see **WTTL**, Feb. 4, page 8). Fellow committee member Sen. Rob Portman (R-Ohio) previously introduced legislation (S. 365) for the same purpose, but with slight different requirements.

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"Congress should take back some of this delegation of its Constitutional authority and rebalance trade powers between the two branches in a responsible way that doesn't impede a president's ability to protect America's national security," Grassley said in a statement March 26.

Two days later, Sen. Pat Toomey (R-Pa.) told an event in Washington that he and Grassley have a "shared view of the fundamentals," even if the specific bill that might emerge could have different requirements. For example, Toomey's bill requires congressional approval within 60 days or the tariffs cannot take effect, and it would be retroactive so Congress would get a vote on existing tariffs. That retroactivity is "one of the more controversial parts" of his bill and is "still the subject of discussion."

While Toomey said he wants a "legislative outcome," not simply to send a message of congressional intent, he was realistic about any bill's prospects. We're "probably going to need 67 votes" in the Senate to override a presidential veto, he noted. Toomey also cited the more than 60 endorsements from industry groups, many of whom expressed support even before the bills were introduced.

Tool Company Settles OFAC Iran Sanctions Charges

Stanley Black & Decker of New Britain, Conn., and its Chinese subsidiary Jiangsu Guoqiang Tools (GQ) agreed March 27 to pay Treasury's Office of Foreign Assets Control (OFAC) \$1,869,144 to settle 23 charges of violating U.S. Iran sanctions. Between June 2013 and December 2014, GQ exported and attempted to export power tools and spare parts worth more than \$3 million to Iran or to "a third country with knowledge that such goods were intended specifically for supply, transshipment, or reexportation, directly or indirectly, to Iran," OFAC noted.

Stanley Black & Decker voluntarily self-disclosed the apparent violations on behalf of GQ. "Despite the written agreements GQ's senior management executed in which they attested that GQ would not engage in transactions with Iran, and notwithstanding the ... trainings Stanley Black & Decker provided, GQ continued to export goods to Iran throughout 2013 and 2014," the agency said. Stanley Black & Decker acquired a 60% interest in GQ in May 2013 and created a joint venture with the firm.

"GQ utilized six trading companies as conduits for these sales — four companies located in the United Arab Emirates and two companies located in China. In addition, GQ employees created fictitious bills of lading with incorrect ports of discharge and places of delivery and instructed their customers not to write 'Iran' on business documents, such as bills of lading," OFAC noted.

"Stanley Black & Decker, Inc. is committed to a culture of integrity and compliance. In 2015, upon learning that employees at a recently acquired company had disregarded our training and violated our trade compliance policies and procedures, we took quick action to

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April 1, 2019

remediate and also submitted a voluntary self-disclosure to OFAC," a company spokesperson wrote in an email to WTTL. "We have taken and will continue to take steps to ensure all employees are compliant with corporate policies and applicable laws," the spokesperson added.

USTR Highlights Victories, Irritants in Annual Report

In the 34th edition of an annual report, it can be hard to distinguish between the boiler-plate of trade irritants and the newly implemented barriers that will truly lead to lost business. This year's National Trade Estimate (NTE) that the U.S. Trade Representative's (USTR) office released March 29 is no different, just a bit longer.

This year's 540-page report covers trade barriers in 61 countries, the European Union (EU), Taiwan, Hong Kong, and the Arab League and addresses everything from tariffs, nontariff barriers, phyto-sanitary and sanitary restrictions, to government procurement, standards, import and customs procedures, quotas and intellectual property protection. The section on China covers 22 pages; Japan gets 16 pages; and the EU, 50 pages.

On China, with which the administration is conducting ongoing trade talks, the U.S. "continues to pursue vigorous engagement to increase the benefits that U.S. businesses, workers, farmers, ranchers, service providers and consumers derive from trade and economic ties with China," it said. "China continued to pursue a wide array of industrial policies in 2018 that seek to limit market access for imported goods, foreign manufacturers and foreign services suppliers, while offering substantial government guidance, resources and regulatory support to Chinese industries," the report noted.

On trade with the EU, the report highlighted "some of the most significant barriers that have endured despite repeated efforts at resolution through bilateral consultations or WTO [World Trade Organization] dispute settlement," it said. U.S. exporters and investors "face persistent barriers to entering, maintaining, or expanding their presence in certain sectors of the EU market," it said.

In a fact sheet released with the NTE, the USTR's office highlighted successes at the WTO against China's unfair duties on poultry broiler products and its domestic support for rice, wheat, and corn as being in excess of the country's commitments. In addition, it cited numerous provisions of the negotiated U.S-Mexico-Canada Agreement (USMCA) "that – once in force – will address outstanding trade-related irritants."

For example, under the USMCA, Canada agreed to eliminate certain milk classes, discriminatory grading of U.S. wheat, rules prohibiting simultaneous substitution of advertising for the Super Bowl, and British Columbia's discriminatory treatment of U.S. wine in grocery stores, the report noted.

In another fact sheet focused on digital trade, the USTR highlighted work toward a high-standard agreement on digital trade with other WTO members. Specifically, the report

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noted barriers such as data localization requirements in China, India, Indonesia, Kenya, Nigeria, Russia, Saudi Arabia, Turkey and Vietnam, as well as restrictions on cross-border data flows in China, India and Korea.

"Korea restricts the export of geo-location data, disadvantaging international suppliers that incorporate services such as traffic updates and navigation into their products. Korea is the only market in the world that USTR is aware of maintaining such restrictions," the report noted.

CIT Upholds Constitutionality of Section 232 Tariffs

As lawmakers are mulling legislation to restore congressional authority under Section 232, two Court of International Trade (CIT) judges March 25 upheld the constitutionality of the tariffs in *Am. Inst. for Int'l Steel, Inc. v. U.S.*, citing a 1976 Supreme Court opinion. A third judge wrote a separate opinion that concurs with the ruling, but with doubts.

The American Institute for International Steel (AIIS), an association of steel-consuming companies that has long been opposed to any tariffs, filed the suit in June 2018, challenging the constitutionality of Section 232 by which President Trump has imposed a 25% tariff on imported steel (see **WTTL**, July 2, page 2).

"Identifying the line between regulation of trade in furtherance of national security and an impermissible encroachment into the role of Congress could be elusive in some cases because judicial review would allow neither an inquiry into the President's motives nor a review of his fact-finding," Judges Claire R. Kelly and Jennifer Choe-Groves wrote.

"One might argue that the statute allows for a gray area where the President could invoke the statute to act in a manner constitutionally reserved for Congress but not objectively outside the President's statutory authority, and the scope of review would preclude the uncovering of such a truth. Nevertheless, such concerns are beyond this court's power to address," they added.

"What we have come to learn is that section 232 ...provides virtually unbridled discretion to the President with respect to the power over trade that is reserved by the Constitution to Congress. Nor does the statute require congressional approval of any presidential actions that fall within its scope," Judge Gary Katzmann wrote in a dubitante opinion.

"In short, it is difficult to escape the conclusion that the statute has permitted the transfer of power to the President in violation of the separation of powers," he wrote. "If the delegation permitted by section 232, as now revealed, does not constitute excessive delegation in violation of the Constitution, what would?" Katzmann asked.

AIIS President Richard Chriss said in a statement the group was "heartened" by parts of the court's opinion, but would appeal the decision. "Unfortunately, the court also found that a 1976 Supreme Court decision foreclosed closer review of the merits of our constitutional claim by the CIT itself," Chriss said.

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April 1, 2019

WTO Rules in Decade-Long Boeing-Airbus Dispute

In yet another case where both sides claimed victory, the World Trade Organization's (WTO) Appellate Body (AB) confirmed March 28 that the U.S. has continued to provide subsidies to Boeing through tax concessions despite previous rulings in the long-standing dispute. However, the panel said it could not determine whether other programs constituted subsidies benefiting Boeing or had adversely affected sales of Airbus aircraft.

In May 2018, the AB confirmed that the EU and four of its member states failed to comply with an earlier ruling by maintaining illegal subsidies for Airbus (see **WTTL**, May 21, 2018, page 4).

In this latest case, the AB specifically said a determination on foreign sales corporation/extraterritorial income (FSC/ETI) tax concessions "must focus on the conduct of a government, rather than on the use of tax concessions by the eligible taxpayers," the report noted. "On this basis, the Appellate Body reversed the Panel's rejection of the European Union's claim that the tax concessions at issue involved a financial contribution," it said.

"The Appellate Body completed the legal analysis and found that, to the extent that Boeing remains entitled to FSC/ETI tax concessions in the post-implementation period, the United States has not withdrawn FSC/ETI subsidies with respect to Boeing," the panel added.

U.S. officials welcomed the ruling as a "major win," citing even larger EU subsidies to Airbus. "This report confirms what every other WTO report on these issues has found: the United States does not provide support even remotely comparable to the exceptionally large and harmful EU subsidies to Airbus. It is long past time for the EU to stop their subsidies and let our world-class aircraft manufacturers compete on a truly level playing field," said USTR Robert Lighthizer in a statement.

In contrast, EU trade officials said the ruling vindicated their long-held position that the U.S. "has taken no steps to comply with WTO rules on support to Boeing." Specifically, "the Appellate Body has now settled this case definitively, confirming our view the U.S. has continued to subsidize Boeing despite WTO rulings to the contrary. We will continue to defend a level-playing field for our industry. European companies must be able to compete on fair and equal terms and today's ruling is important in this respect," EU Trade Commissioner Cecilia Malmström said.

* * * Briefs * * *

TRADE FIGURES: Merchandise exports in January jumped 3.3% from year ago to \$137.4 billion, Commerce reported March 27. Services exports gained 2.5% to record-high \$69.9 billion from January 2018. Goods imports increased 1.1% from January 2018 to \$210.7 billion, as services imports gained 4.0% to \$47.8 billion.

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April 1, 2019

Washington Tariff & Trade Letter

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<u>SILICOMANGANESE</u>: In 5-0 "sunset" vote March 27, ITC said revoking antidumping duty orders on imports of silicomanganese from India, Kazakhstan and Venezuela would renew injury to U.S. industry.

<u>FCPA</u>: Chi Ping Patrick Ho aka Patrick C.P. Ho, head of Hong Kong non-governmental organization China Energy Fund, was sentenced March 25 in Manhattan U.S. District Court to 36 months in prison for participating in multi-year, multimillion-dollar scheme to bribe high-level officials in Chad and Uganda in exchange for business advantages for Chinese oil and gas company. Federal jury convicted Ho of conspiring to violate Foreign Corrupt Practices Act (FCPA), violating FCPA, conspiring to commit international money laundering, and committing international money laundering after one-week trial (see **WTTL**, Dec. 10, 2018, page 5). Ho and Cheikh Gadio, former foreign minister of Senegal and U.S. resident, were charged in November 2017. Charges against Gadio were dropped in September 2018.

<u>SYRIA</u>: OFAC, State and Coast Guard March 25 updated previous advisory to alert persons to "significant U.S. sanctions risks for parties involved in petroleum shipments to Syria," especially those shipments involving Iran and Russia (see **WTTL**, Nov. 26, 2018, page 6). In addition to non-exhaustive list of vessels that have delivered petroleum to Syria, new annex provides list of dozens of vessels "engaged in Ship-to-Ship (STS) transfers of petroleum destined for Syria, or have exported Syrian petroleum since 2016. Some of these shipments and transfers have involved Iranian-origin oil," agencies noted.

<u>IRAN</u>: OFAC March 26 designated 25 individuals and entities, including Iran, UAE and Turkey-based front companies, and Iran's Ministry of Defense and Armed Forces Logistics (MODAFL) and Ansar Bank, as part of "extensive sanctions evasion network." Iran established network "to bypass sanctions, gain access to the international financial system, and exchange devalued Iranian rial for dollars and euros," agency noted. OFAC and State four days earlier designated 14 individuals and 17 entities connected to Iran's Organization of Defensive Innovation and Research (SPND) (see **WTTL**, March 25, page 5).

<u>SOUTH SUDAN</u>: At first meeting of WTO Working Party of South Sudan March 21, members expressed support for nation's accession negotiations. "All journeys, short or long, start by a mere single step," said Chief Negotiator Aggrey Tisa Sabuni at meeting. "South Sudan is the timely reminder of the backbones of the multilateral trading system," Deputy Director-General Alan Wolff said in opening remarks. Request for WTO accession received unanimous support at Ministerial Conference (MC11) in December 2017 (see **WTTL**, Dec. 18. 2017, page 1).

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Message

From: Marquis, Matthew R [MarquisMR@state.gov]

Sent: 4/1/2019 8:44:49 PM

To: Windecker, Melissa A [WindeckerMA@state.gov]; PM-Strategy [PM-Strategy@state.gov]

CC: PM-CPA [PM-CPA@state.gov]; Brown, Stanley L [BrownSL@state.gov]; O'Keefe, Kevin P [OKeefeKP@state.gov];

Miller, Michael F [Millermf@state.gov]; Mak, Daniella [MakD@state.gov]; Martin, Davette T [MartinDT@state.gov]; Dudding, Maria [DuddingM@state.gov]; Litzenberger, Earle D (Lee) [LitzenbergerED@state.gov]; Nute, Kathryn M [NuteKM3@state.gov]; McVerry, James [James.Mcverry.ctr@dla.mil]; String, Marik A [StringMA@state.gov]; Phalen,

Susan A [PhalenSA@state.gov]; chandrawhalenlaw@gmail.com

Subject: CPA MEDIA MONITORING: 1 APRIL 2019



Alerts for 1 April 2019

"Exclusive: U.S. sends message to Turkey, halts F-35 equipment shipments – sources", In recent days, U.S. officials told their Turkish counterparts they will not receive further shipments of F-35 related equipment needed to prepare for the arrival of the stealthy jet, two sources familiar with the situation told Reuters. The aircraft is built by Lockheed Martin Corp.

<u>"U.S., Saudi Arms Transfers Top Global Trade"</u>, The misuse of U.S. arms transferred by recipient countries has drawn recent scrutiny after reports that Saudi Arabia and the UAE had provided U.S. weapons to al Qaeda militias in Yemen. Separately, Indian leaders raised allegations that Pakistan had misused U.S.-supplied fighter aircraft during recent border tensions.

<u>"Spain buys two MQ-9 Block 5 Reaper drones"</u>, Spain is the latest European NATO country to sign up for General Atomics' drones. Also in March 2019, Belgium gained State Department approval for a potentially \$600 million acquisition of four MQ-9B SkyGuardians and the Royal Netherlands Air Force signed a \$123 million contract to buy four MQ-9 Block 5 Reapers.

<u>"US: 'Balikatan' instrumental to stability in Pacific region"</u>, "Exercise 'Balikatan' has become one of the premier military training events in the Pacific hemisphere and has helped us to maintain regional stability, uphold international norms, combat violent extremism, alleviate human suffering, and much more," said US Marine Corps Brig. Gen. Christopher McPhillips, the American exercise director for the annual military maneuvers.

"Punishing the gun industry", The latest excuse — word is this is what's stalling approval from the Trump administration — is this reform is being tangled in the 3D gun-printing dispute. The State Department had previously ruled that gun schematics that can be used by 3D printers to make gun parts can't be posted on the Internet, as a non-U.S. citizen could conceivably download them and that would be an illegal export of a "defense article."

"Special Report: U.S. hackers helped UAE spy on Al Jazeera chairman, BBC host", After Saudi Arabia, the United Arab Emirates, and Bahrain imposed a blockade on Qatar, UAE's Project Raven ramped up its cyber attacks against Qatar and media targets. U.S. operatives hacked the iPhones of ten media figures, Reuters learned. Here's a look at how a group of American mercenaries became enmeshed in a regional crisis between close U.S. allies.

"NATO approves spending at US forces support site in Poland, eyes expanded presence in Black Sea", New measures will focus on improving NATO's "situational awareness" in the region and stepping up support for

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Ukraine and Georgia — two non-NATO countries that have been involved in conflicts with Russia. Areas of support include "training of maritime forces and coast guards, port visits and exercises, and sharing of information," Stoltenberg said.

- "American Survivor of Egyptian Attack on Tourists Aims to Halt Boeing Sale", Ms. Corley has decided to go public with her cause, hoping to stop a \$1 billion U.S. sale of 10 more Apache helicopters, a deal announced in late 2018, until the Egyptian government agrees to compensation to cover her soaring medical bills. In Washington this week, she is seeking to rally support for her case.
- "Why India should rethink its reticence towards 'the Quad'", India needs to go back to the drawing board and decide what, if anything, it wants from this quadrilateral security alliance. If New Delhi takes the lead, the Quad could become a potent force to counter an increasingly assertive China though this does risks angering Beijing.
- "U.S Military Experts Warn Kenya of Invasion", "Beijing appears in some cases to have attached more importance to acquiring strategic assets than debt repayment from its partners," the US think tank commented.
- <u>"Piracy In Nigerian Waters: The Truth"</u>, The expansion of piracy in the GOG poses a dire threat to local economies, potentially undermining what little stability currently exists in the region. Oil revenue, which many countries in the region rely upon, is seriously threatened by pirate activity; 7 percent of Nigeria's oil wealth is believed lost due to such criminality.
- <u>"Turkey says S-400 delivery talks still on, despite US bill to block F-35"</u>, Turkey, a key partner in the F-35 Joint Strike Fighter program, was reportedly still in talks with Russia to deliver the S-400 Triumph air defense system, despite opposition in the U.S. Congress.
- <u>"Israel, US military complete THAAD missile defense drills"</u>, While Washington and Jerusalem have signed an agreement which would see the US come to assist Israel with missile defense in times of war, the IDF stressed that the drills were part of scheduled exercises and were not related to the high tensions currently on it's borders.
- "On using F-16 jets against India, Pakistan military now says it was 'self defence'", After claiming for weeks that Islamabad had not used US-manufactured F-16 fighter jets in its attempted counter-strike against India, the Pakistan military appeared to change its stance on Monday and insisted that Islamabad had the right to use any fighter jet in its "legitimate self defence".
- "Japan Air Self Defense Force Stands Up First F-35A Lightning II Fighter Squadron", The first four F-35As were all built in the United States, while the remaining F-35As of the squadron were assembled at the Mitsubishi Heavy Industries (MHI) F-35 Final Assembly and Check Out (FACO) facility in Nagoya. Local production is expected to continue at least until the end of fiscal year 2022. The JASDF is slated to take delivery of six F-35As in the upcoming Japanese fiscal year that runs from April 1, 2019, to March 31, 2020.
- "Joint bid to tackle blast injuries", "There are a lot of legacy landmines that were planted in civil wars and other wars on the African continent. They were buried to try and stop people crossing borders or moving areas, but once the conflict is over they remain in the ground," said Langdon. Along with landmines, there are ERW "which could be undetonated ordnance, like missiles", she explained.
- "One's weapons embargo is another's gain: How a German arms embargo benefits the US", In the future, when Saudi Arabia considers buying weapons, it will take into account the past German reluctance and thus will be more likely to favor American-made systems.

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"A Ruling from the Hague Threatens a U.S. and British Military Base in Asia", The Chagos Islands, then, remain a vital strategic anchor for the United States and UK military in the Indian Ocean—uniquely positioned to support power projection within the region and further afield. At the same time, the ICJ's recent ruling, the deep uncertainty around Brexit and the pressure to show robust moral leadership in defense of a rules-based world order all pose new challenges to both the U.S. tenant and UK landlord.

"The great game moves to sea: Tripolar competition in the Indian Ocean region", Smaller countries will be caught between the lure of Chinese largesse and a broad preference for a U.S.-led security architecture and rules-based system. Despite the formation of the International Development Finance Corporation and ongoing Millennium Challenge Corporation efforts, and the U.S. pledge of \$113 million in non-military aid in 2018 to the Indo-Pacific strategy stands in stark contrast to the tens of billions China has spent on the Maritime Silk Road for civilian infrastructure and economic projects,.

"Trump's Sale of F-16 Jets to Taiwan Is Making China Nervous", China, which suspended military exchanges with the U.S. in response to previous sales, protested the F-16 move. The foreign ministry said the country lodged "stern representations" with U.S. while the defense ministry warned against moves that undercut the contention that the mainland and Taiwan are part of "one China."

"UN Chief Appeals for Better Troops, Gear for Peacekeeping", The United States, which is the top funder of U.N. peacekeeping, providing a quarter of its annual budget, said it is focused on the development of intelligence, surveillance and reconnaissance capabilities, which are critical to improving the effectiveness of U.N. peacekeeping operations.

<u>"U.S. Delivers Six Patrol Boats to Vietnam Amid Deepening Security Ties"</u>, The vessels are in addition to another twelve "Metal Shark" patrol boats and a high-endurance cutter provided to Vietnam by the United States in the last two years.

<u>"Russia's Military Mission Creep Advances to a New Front: Africa"</u>, Russia has been steadily expanding its military influence across Africa, alarming Western officials with increasing arms sales, security agreements and training programs for unstable countries or autocratic leaders.

<u>"Taiwan protests China jets crossing center of Taiwan Strait"</u>, Taiwan's defense ministry said a pair of Chinese J-11 jet fighters crossed the line at around 11 a.m. Sunday and entered the island's southwestern airspace. It said Taiwan scrambled jets to warn off the Chinese planes, which came within about 185 kilometers (115 miles) of Taiwan.

Matthew Marquis

Office of Congressional & Public Affairs Bureau of Political-Military Affairs (PM/CPA) U.S. Department of State

Phone: 202.647.6968

e-mail: MarquisMR@state.gov | Web: www.state.gov/t/pm / |Twitter: @StateDeptPM

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Case 2:20-cv-00111-RAJ Document 106-13 Filed 09/23/20 Page 65 of 378

Message

From: McKeeby, David I [McKeebyDI@state.gov]

Sent: 4/2/2019 6:27:20 PM

To: String, Marik A [StringMA@state.gov]
CC: Paul, Joshua M [PaulJM@state.gov]

Subject: CATS I-III Materials

Attachments: 0222 CATS I-III MYTHS V FACTS.docx; 0326 TWEETS--CATS I-III.docx

Marik:

As requested.

Best, Dave

David I. McKeeby

Office of Congressional & Public Affairs Bureau of Political-Military Affairs (PM/CPA)

U.S. Department of State

2 Phone: 202.647.8757 | □ BlackBerry:

🖂 e-mail: <u>mckeebydi@state.gov</u> | 4 Web: <u>https/www.state.gov/t/pm</u> |Twitter: @StateDeptPM

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U.S. DEPARTMENT OF STATE Office of the Spokesperson

For Immediate Release

February 22, 2018

Myth: Transferring control of firearms from State to Commerce will result in deregulation of U.S. firearms exports, increasing numbers of U.S.-manufactured small arms around the world, and contributing to conflicts in places such as Africa or Central America or those involving gangs and non-state actors.

Fact: The transfer of certain firearms to the control of the Department of Commerce does not decontrol the export of firearms. All firearms moved from the jurisdiction of the Department of State to the jurisdiction of the Department of Commerce will have a worldwide license requirement. The U.S. Government is not considering removing the export license requirement for any firearms regardless of which agency has licensing jurisdiction or the proposed destination.

Myth: Transferring control to Commerce will remove the licensing requirement for firearms to many countries under Strategic Trade Authorization Rules.

Fact: The Commerce license exception Strategic Trade Authorization may not be used for the firearms and shotguns that transitioned from the USML. Only long barreled shotguns that were previously controlled by Commerce may be exported using license exception Strategic Trade Authorization.

Additionally, the receivers, detachable magazines, and other significant parts and
components of these formerly USML firearms, such as the barrels, cylinders, barrel
extensions, mounting blocks (trunnions), bolts, bolt carriers, operating rods, gas pistons,
trigger housings, triggers, hammers, sears, disconnectors, pistol grips that contain fire
control "parts" or "components," and buttstocks that contain fire control "parts" or
"components" are similarly ineligible for export under license exception Strategic Trade
Authorization.

Myth: Even after this change, small U.S. gunsmiths will continue to be burdened by registration and requirement fees.

Fact: Most gunsmiths are not required to register as manufacturers under the ITAR today. Commerce does not have a registration requirement for manufacturers and exporters of the items under its jurisdiction. Therefore, small gunsmiths who do not manufacture, export, or broker the automatic weapons and other sensitive items that remain on the USML will no longer need to determine if they are required to register under the ITAR, but they may still be required to comply with Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) licensing requirements.

• This revision of controls will also calibrate the requirements for smaller manufacturers and their compliance with U.S. export controls.

- This reform will help to clarify what is controlled on which list, ending jurisdictional confusion and making it easier for exporters, especially small businesses, to comply.
- For those items moved from the U.S. Munitions List to the Commerce Control List, the export licensing requirements and process implemented by the Department of Commerce will be calibrated both to the sensitivity of the item and the proposed destination.
- As a result, foreign manufacturers will enjoy a greater opportunity to source from small U.S. companies. This is good for: U.S. manufacturing, the defense industrial base, security of supply to the U.S. military, and interoperability with allies, to name but a few benefits.
- As part of the recent reforms to our export control system, the end-user screening lists maintained by State, Commerce, and the Treasury have all been compiled into a single list in one place: [HYPERLINK "http://www.export.gov/ecr/eg_main_023148.asp"]. This single list has almost 8,000 line items. As a result, those companies that cannot afford to hire a screening service or read Federal Register notices every day can self-screen their sales orders to make sure they do not inadvertently send their products to a prohibited recipient. In 2013, the average number of monthly downloads of the consolidated list was 34,000. Upgrades made in November 2014, including a new "fuzzy logic" search tool added in mid-2015 that helps find listed entities without knowing the exact spelling, are resulting in hundreds of thousands of screens per day.
- A single application form is in development. When deployed, this form will enable exporters to apply for licenses from any participating export control agency from the same starting point.

Myth: The transfer of items from ITAR to Commerce export control will also change items that are controlled for permanent import.

Fact: The State and Commerce Department export control changes do not alter permanent import controls.

- The Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) administers permanent import controls for Arms Export Control Act defense articles on the U.S. Munitions Import List.
- The movement of these firearms to the Commerce Department for export licensing does not change ATF jurisdiction for permanent import control.

Myth: The licensing of U.S. arms by the Commerce Department will lead to less regulation, resulting in U.S.-origin items being more widely available for use in human rights abuses.

Fact: The movement of certain firearms to the Commerce Department will allow for more tailored export controls of items.

- The U.S. Government will continue its longstanding end-use monitoring efforts, including vetting of potential end-users, to help prevent human rights abuses. The U.S. Government is not removing the export license requirements for firearms or ammunition.
- The Department of Defense and the Department of State will remain active in the process of determining how an item is controlled and reviewing export license applications for national security and foreign policy reasons, including the prevention of human rights abuses.

Myth: The Commerce Department has a lack of subject matter experts in firearms' licensing and control, making it a poor choice to control small arms exports.

Fact: The Commerce Department has been licensing shotguns and shotgun ammunition for decades. The Commerce Department has investigated and disrupted numerous diversion rings and will bring that expertise to bear on small arms.

For further information, please contact the [HYPERLINK "http://www.state.gov/t/pm/"], Office of Congressional and Public Affairs at [HYPERLINK "mailto:PM-CPA@state.gov"] and follow us on Twitter @StateDeptPM.

###

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Message

From: String, Marik A [StringMA@state.gov]

Sent: 4/2/2019 6:50:08 PM

To: Shields, Brendan.P [Brendan.P.Shields@mail.house.gov]

Subject: Materials

Attachments: 0326 TWEETS--CATS I-III.docx; 0222 CATS I-III MYTHS V FACTS.docx

Brendan,

Marik

Official - SBU UNCLASSIFIED

U.S. DEPARTMENT OF STATE Office of the Spokesperson

For Immediate Release

February 22, 2018

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Additionally, the receivers, detachable magazines, and other significant parts and
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Proposed Social Media Postings CATS I-III



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Proposed Social Media Postings CATS I-III



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Message

From: Kovar, Jeffrey D [KovarJD@state.gov]

Sent: 4/4/2019 11:09:40 AM

To: Minarich, Christine M [MinarichCM@state.gov]
CC: Rogers, Shana A [RogersSA2@state.gov]

Subject: Fw: ECRA paper

Attachments: Commerce Responses to OLCs ECRA-related Questions 0402019.docx; ATT00001.htm

Sent from my BlackBerry 10 smartphone.

From: Schouten, Schuyler J. EOP/WHO <Schuyler.J.Schouten@who.eop.gov>

Sent: Thursday, April 4, 2019 5:55 AM **To:** Kovar, Jeffrey D; matthew. tuchband **Cc:** Menashi, Steven J. EOP/WHO

Subject: ECRA paper

Message

From: McKeeby, David I [McKeebyDI@state.gov]

Sent: 4/4/2019 3:36:51 PM

To: Heidema, Sarah J [HeidemaSJ@state.gov]; Monjay, Robert [MonjayR@state.gov]; Hart, Robert L [HartRL@state.gov]

CC: Paul, Joshua M [PaulJM@state.gov]
Subject: RE: Quick Check -- Cat I-III Tweets
Attachments: 0326 TWEETS--CATS I-III.docx

Colleagues:

Following up on this one, please.

Thanks, Dave

David I. McKeeby

Office of Congressional & Public Affairs Bureau of Political-Military Affairs (PM/CPA)

U.S. Department of State

2 Phone: 202.647.8757 | □ BlackBerry:

🖂 e-mail: mckeebydi@state.gov | 4 Web: https/www.state.gov/t/pm | Twitter: @StateDeptPM

Stay connected with State.gov:



From: McKeeby, David I

Sent: Wednesday, April 3, 2019 4:10 PM

To: Heidema, Sarah J < HeidemaSJ@state.gov>; Monjay, Robert < MonjayR@state.gov>; Hart, Robert L

<HartRL@state.gov>

Subject: Quick Check -- Cat I-III Tweets

Colleagues:

Taking another look at these Cat I-III Tweets we worked up together last week.

Otherwise, is there anything else in here that might need tweaking? We'd like to have these ready for use as needed ASAP.

Thanks, Dave

David I. McKeeby

Office of Congressional & Public Affairs

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Bureau of Political-Military Affairs (PM/CPA) U.S. Department of State

Phone: 202.647.8757 | □ BlackBerry:

e-mail: mckeebydi@state.gov | 1 Web: https/www.state.gov/t/pm | Twitter: @StateDeptPM

Stay connected with State.gov:



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Message

From: Kovar, Jeffrey D [KovarJD@state.gov]

Sent: 4/5/2019 7:13:40 PM

To: Nightingale, Robert L [NightingaleRL@state.gov]

CC: Legal-PM-DL [Legal-PM-DL@state.gov]

Subject: L/PM Weekly Report





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Message

From: Kovar, Jeffrey D [KovarJD@state.gov]

Sent: 4/5/2019 7:13:25 PM

To: Minarich, Christine M [MinarichCM@state.gov]

Subject: RE: Lookaheads

thx

From: Minarich, Christine M < Minarich CM@state.gov>

Sent: Friday, April 5, 2019 3:10 PM

To: Kovar, Jeffrey D < KovarJD@state.gov> **Cc:** Rogers, Shana A < RogersSA2@state.gov>

Subject: RE: Lookaheads

Jeff,

Christine

From: Kovar, Jeffrey D < KovarJD@state.gov>

Sent: Friday, April 5, 2019 2:00 PM

To: Legal-PM-DL < Legal-PM-DL@state.gov>

Subject: FW: Lookaheads

Hi - Could you please send me any blurbs by 3pm? Thanks _ jeff

From: Nightingale, Robert L < NightingaleRL@state.gov>

Sent: Friday, April 5, 2019 1:18 PM

To: Legal-ALAs-DL@state.gov>

Subject: Lookaheads

Hi all,

Reminder to provide any lookaheads today - thanks!

Best, Robby

Official

Case 2:20-cv-00111-RAJ Document 106-13 Filed 09/23/20 Page 80 of 378

Message

From: Nightingale, Robert L [NightingaleRL@state.gov]

Sent: 4/6/2019 2:55:23 PM

To: Legal-All-Employees-DL [Legal-All-Employees-DL@state.gov]

Subject: Lookaheads Week of 4-8-2019

Attachments: L Weekly Lookaheads - Apr 8 2019.docx

Hi all,

Thanks so much for your contributions to this week's lookaheads. Have a great weekend and, if you're around DC, enjoy the cherry blossoms and/or cherry blossom crowds.

Best, Robby

Official - SBU UNCLASSIFIED

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SENSITIVE BUT UNCLASSIFIED

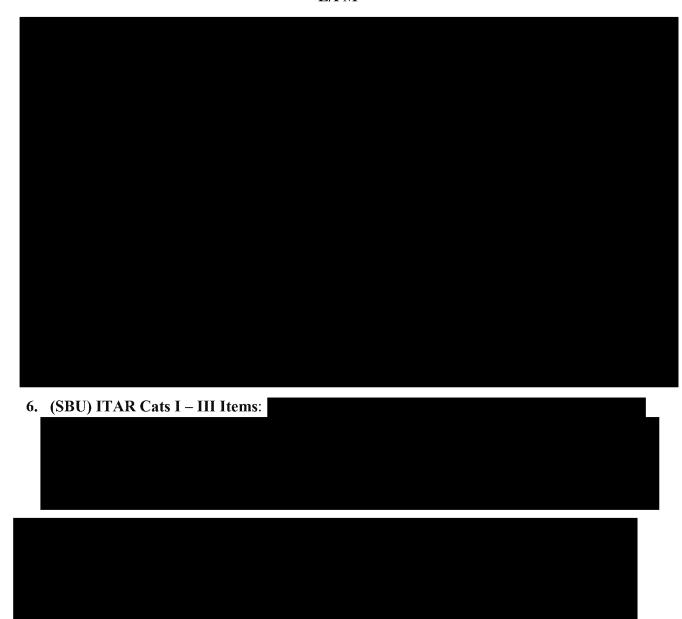
L Weekly Lookaheads April 8, 2019

[TOC \o "1-3" \h \z \u]

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L/PM



SENSITIVE BUT UNCLASSIFIED - [PAGE * MERGEFORMAT] -

Case 2:20-cv-00111-RAJ Document 106-13 Filed 09/23/20 Page 99 of 378

Message

From: Battista, Andrea L [BattistaAL@state.gov]

Sent: 4/10/2019 3:07:33 PM

To: Monjay, Robert [MonjayR@state.gov]

Subject: RE: Emergency Submission Comment on "information collection title"Ple

Hi Rob,

I hope all is well.

Please let me know.

Thanks, Andrea

From: Battista, Andrea L

Sent: Monday, March 25, 2019 12:38 PM **To:** Monjay, Robert < MonjayR@state.gov>

Subject: RE: Emergency Submission Comment on "information collection title"Ple

Thanks Rob.

If it is easier to discuss in person, please let me know and I'll come up at a time that is convenient for you.

Thanks again,

Andrea

From: Monjay, Robert < MonjayR@state.gov>
Sent: Monday, March 25, 2019 12:14 PM
To: Battista, Andrea L < BattistaAL@state.gov>

Subject: RE: Emergency Submission Comment on "information collection title"Ple

Thanks Rob

Official

UNCLASSIFIED

From: Battista, Andrea L < <u>BattistaAL@state.gov</u>> Sent: Monday, March 25, 2019 12:03 PM

To: Monjay, Robert < MonjayR@state.gov>

Subject: FW: Emergency Submission Comment on "information collection title"Ple

Hi Rob,

I hope all is well.

Please let me know if you have any questions/concerns.

Thank you, Andrea

From: Myers, Michael, E < Myers, Michael, E < Myers, Michael, E < Myers, Michael, E < MyersMedstate.gov

Subject: FW: Emergency Submission Comment on "information collection title"Ple

Andrea --

I received this from Rob Monjay this morning. I believe that this goes to you.

V/r,

Mike

Michael E. Myers

Management Analyst
U.S. Department of State, (Contractor – Muscogee International, LLC)
Directorate of Defense Trade Controls
PM-DTCM
(202) 663-3759
myersme@state.gov

Official

UNCLASSIFIED

From: Monjay, Robert < MonjayR@state.gov>
Sent: Tuesday, March 12, 2019 6:00 PM
To: Myers, Michael, E < MyersME@state.gov>

Subject: FW: Emergency Submission Comment on "information collection title"Ple

Mike,

We received the attached in response to a notice that you published.

Thanks Rob

From: @gmail.com>

Sent: Friday, March 8, 2019 8:47 AM

To: DDTCPublicComments < DDTCPublicComments@state.gov>

Cc: mborman@bis.doc.gov; @hp.com>

Subject: Emergency Submission Comment on "information collection title"Ple

Please see attached documents.

Official

Message

From: Monjay, Robert [MonjayR@state.gov]

Sent: 4/10/2019 3:52:02 PM

To: Battista, Andrea L [BattistaAL@state.gov]

Subject: Re: Emergency Submission Comment on "information collection title"Ple

Robert Monjay 202-663-2817 (office) mobile)

From: Battista, Andrea L

Sent: Wednesday, April 10, 2019 5:07:33 PM

To: Monjay, Robert

Subject: RE: Emergency Submission Comment on "information collection title"Ple

Hi Rob,

I hope all is well. Please let me know.

Thanks, Andrea

From: Battista, Andrea L

Sent: Monday, March 25, 2019 12:38 PM **To:** Monjay, Robert < Monjay R@state.gov>

Subject: RE: Emergency Submission Comment on "information collection title"Ple

Thanks Rob.

If it is easier to discuss in person, please let me know and I'll come up at a time that is convenient for you.

Thanks again,

Andrea

From: Monjay, Robert < MonjayR@state.gov > Sent: Monday, March 25, 2019 12:14 PM
To: Battista, Andrea L < BattistaAL@state.gov >

Subject: RE: Emergency Submission Comment on "information collection title"Ple

Let me know if I can provide

any assistance.

Thanks Rob

Official

UNCLASSIFIED

From: Battista, Andrea L < Battista AL@state.gov>

Sent: Monday, March 25, 2019 12:03 PM
To: Monjay, Robert < MonjayR@state.gov>

Subject: FW: Emergency Submission Comment on "information collection title"Ple

Hi Rob,

I hope all is well. I believe the attached public comment relates to the Rule and not the IC.

Please let me know if you have any questions/concerns.

Thank you, Andrea

From: Myers, Michael, E < MyersME@state.gov > Sent: Wednesday, March 13, 2019 8:54 AM
To: Battista, Andrea L < Battista AL@state.gov >

Subject: FW: Emergency Submission Comment on "information collection title"Ple

Andrea -

I received this from Rob Monjay this morning. I believe that this goes to you.

V/r,

Mike

Michael E. Myers

Management Analyst
U.S. Department of State, (Contractor – Muscogee International, LLC)
Directorate of Defense Trade Controls
PM-DTCM
(202) 663-3759
myersme@state.gov

Official

UNCLASSIFIED

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Case 2:20-cv-00111-RAJ Document 106-13 Filed 09/23/20 Page 103 of 378

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To: DDTCPublicComments < DDTCPublicComments@state.gov>

Cc: mborman@bis.doc.gov; @hp.com>

Subject: Emergency Submission Comment on "information collection title"Ple

Please see attached documents.

Official

Message

From: Marquis, Matthew R [MarquisMR@state.gov]

Sent: 4/12/2019 3:15:53 PM

To: Legal-PM-DL [Legal-PM-DL@state.gov]

CC: PM-CPA [PM-CPA@state.gov]

Subject: FW: CPA Media Monitoring: The Truth About Guns: NSSF Honors US Rep. Steve Scalise as 2018 Legislator of the Year

+PM Legal

From: Marquis, Matthew R < MarquisMR@state.gov>

Sent: Friday, April 12, 2019 11:13 AM

To: PM-DTCP-Tasking-DL < PM-DTCP-Tasking-DL@state.gov>

Cc: PM-CPA <PM-CPA@state.gov>; String, Marik A <StringMA@state.gov>; Miller, Michael F <Millermf@state.gov>
Subject: CPA Media Monitoring: The Truth About Guns: NSSF Honors US Rep. Steve Scalise as 2018 Legislator of the Year



NSSF Honors US Rep. Steve Scalise as 2018 Legislator of the Year By The Truth About Guns 11 April 2019

CPA Note: Comments section included for commentary on CATS I-III

NEWTOWN, Conn. — The National Shooting Sports Foundation® (NSSF®), the trade association for the firearms, ammunition, hunting and shooting sports industries, awarded U.S. House of Representatives Minority Whip Steve Scalise (R-La.) the 2018 Legislator of the Year at the organization's annual dinner in Washington D.C., coinciding with the firearms industry's annual Congressional Fly-In.

"We honor Congressman Scalise for his perseverance and steadfast leadership in the U.S. House of Representatives, particularly for his tireless efforts to advance the U.S. Munitions List to Commerce Control List Transition and we are honored to present him with the 2018 NSSF's Legislator of the Year Award," said Lawrence G. Keane, NSSF Senior Vice President and General Counsel. "Congressman Scalise's commitment to advance protections of Constitutional Second Amendment rights and lawful industries that service those who choose to exercise those rights. Congressman Scalise has been resolute in his convictions and his duty to execute his oath of office after enduring an attempt on his life. His grit was on full display for all our nation to admire when he returned to Congress as a stronger champion for the lawful commerce in arms and determined to empower our law enforcement to pursue those who would criminally misuse firearms."

"I'm honored to receive NSSF's Legislator of the Year award," said Whip Steve Scalise. "Even while some in Washington try to restrict our Second Amendment rights, small businesses, retailers, and gunsmiths across the country continue to suffer from heavy-handed regulation and government bureaucracy that infringe on our rights. I'm proud to stand for our Second Amendment, and I will always work to protect these rights."

The transition of the U.S. Munitions List to the Commerce Control List was an effort begun during the Obama administration to enact export control reforms. Of 18 categories of exports, only the three involving sporting firearms and ammunition were purposely left undone. Congressman Scalise championed legislation and is working closely with President Donald Trump's administration to finalize these reforms for our industry. The reforms would move export licensing of firearms and ammunition from the U.S. State Department to the Commerce Department, an effort that would allow U.S. manufacturers to more evenly compete with foreign manufacturers for competitive contracts. Reduce regulatory burdens while enhancing national security.

The reforms would also eliminate an onerous annual State Department \$2,250 registration fee imposed on small manufacturers who do not export firearms and gunsmiths, who don't produce, nor export firearms, but simply repair firearms.

NSSF eagerly awaits publication of the final rule from the White House, which has supported these reforms.



barnbwt says:

April 11, 2019 at 19:02

The Munitions List change is the one truly significant pro-gun initiative we've seen during this administration, and those doing the work deserve credit. Removing fees will help some but mainly this opens up the global market to US companies that have been suffering tge last couple years.

Reply



Marcia Mason says:

April 11, 2019 at 19:04

I can't believe this ITAR thing is taking so long to resolve. Meanwhile, years after it was started, small ma and pa gunsmiths are still saddled with that outrageous fee to the State Dept. The sooner this gets eliminated the happier we will all be. To NSSF and Scalise and Trump: never stop fighting for us little people, we beg you!

Link: https://www.thetruthaboutguns.com/2019/04/staff-writer/nssf-honors-us-rep-steve-scalise-as-2018-legislator-of-the-year/#comment-4234175

Matthew Marquis

Office of Congressional & Public Affairs Bureau of Political-Military Affairs (PM/CPA) U.S. Department of State

Phone: 202.647.6968

e-mail: MarquisMR@state.gov | Web: www.state.gov/t/pm / Twitter: @StateDeptPM

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Case 2:20-cv-00111-RAJ Document 106-13 Filed 09/23/20 Page 107 of 378

Message

From: Marquis, Matthew R [MarquisMR@state.gov]

Sent: 4/18/2019 2:27:37 PM

To: PM-DTCP-Tasking-DL [PM-DTCP-Tasking-DL@state.gov]; Legal-PM-DL [Legal-PM-DL@state.gov]

CC: PM-CPA [PM-CPA@state.gov]; String, Marik A [StringMA@state.gov]; Miller, Michael F [Millermf@state.gov]

Subject: CPA Media Monitoring: Bloomberg: Don't Ease Gun Export Rules



Don't Ease Gun Export Rules By Bloomberg 17 April 2019

President Donald Trump, who has received unprecedented support from America's gun lobby, seems determined to make it easier to export firearms and harder to keep track of whether they're destined for terrorists or rogue regimes. He proposes to do this by shifting oversight of the export of semi-automatic and non-automatic firearms, as well as of various gun components and some types of ammunition, from the Department of State to the Department of Commerce.

The change threatens to undermine national security and public safety around the world. Congress should stop it from taking effect.

The U.S. is already the world's biggest firearms exporter, shipping roughly \$7.5 billion worth of guns, artillery and ammunition from 2013 to 2017. Some of this equipment has ended up with al-Qaeda fighters and other terrorists, undermining the struggle to keep lethal weapons out of the hands of America's enemies.

Under the current system, State Department licensing officers too often approve export applications that lack required information, a department inspector general has found. In one instance, approval was granted to sell 400,000 rifles, along with more than 500 million rounds of ammunition and other equipment, to the Philippines Bureau of Customs — without notification to Congress, as required by law. Subsequent investigation found that licensing information was missing and the transaction's intermediary had "disappeared."

If licensing responsibility shifts to the Commerce Department, such lapses stand to become more frequent. Commerce lacks the specialized staff and expertise to vet arms sales, and has no plan to acquire them. Commerce officials have already indicated they will not feel obligated to notify Congress, as the State Department must, when gun exports are valued at more than \$1 million. It's unclear whether the Commerce Department would even suspend sales to a buyer found to be operating illegally or in contravention of U.S. foreign policy aims.

The Trump administration also plans to end State Department oversight of the publication of computer code enabling 3-D printable guns. That would make it easier for people inside and outside the U.S. to make untraceable firearms at home and, like the change to gun-export authority, make guns more plentiful and difficult to regulate.

Democratic Representatives Eliot Engel and Norma Torres are proposing legislation to block the changes to oversight of weapons for export and 3-D printable guns. Congress should pass it without delay.

Link: https://www.bloomberg.com/	opinion/articles/2019-04-17/don-t-ease-gun-export-rules/
Matthew Marquis	-

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e-mail: MarquisMR@state.gov | Web: www.state.gov/t/pm / |Twitter: @StateDeptPM

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From: Marquis, Matthew R [MarquisMR@state.gov]

Sent: 4/18/2019 3:20:42 PM

To: PM-DTCP-Tasking-DL [PM-DTCP-Tasking-DL@state.gov]; Legal-PM-DL [Legal-PM-DL@state.gov]

CC: PM-CPA [PM-CPA@state.gov]; String, Marik A [StringMA@state.gov]; Miller, Michael F [Millermf@state.gov]

Subject: CPA Media Monitoring: Reason: The Right to Print Arms



The Right to Print Arms By John Stossel 17 April 2019

Are you very afraid? 3D-printed guns are coming.

"Virtually undetectable!" shrieked CNN.

"This changes the safety of Americans forever!" shrieked MSNBC.

Does it?

Six years ago, a company called Defense Distributed posted blueprints for 3D-printed guns on the web. The Obama State Department said that violated the Arms Control Act because allowing foreigners to see them is equivalent to exporting a missile launcher, and that's illegal.

Defense Distributed withdrew the blueprints. Gun control advocates were relieved.

"We have enough guns in this country already," Massachusetts legislator David Linsky tells me in my new video about 3D-printed guns.

But this debate is about free speech, too.

"You can't ban lawful U.S. citizens from sharing information with other lawful U.S. citizens," says Defense Distributed's lawyer, Josh Blackman.

"After the Oklahoma City bombing, Congress asked the Department of Justice, 'Can we make a law that bans putting bomb-making instruction on the internet?' The DOJ said, 'No, you can't ban putting files on the internet."

Not even files showing how to make a nuclear weapon?

A "nuclear bomb [is] different because it's classified information," he said. Courts have upheld restrictions on publishing classified information.

But the web is filled with unclassified information about how to make all sorts of deadly things.

"Should The Anarchist Cookbook be banned"? I asked Linsky. It contains deadly recipes.

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"There's no reason to ban books," he replied. "The genie is out of the bottle a long, long time ago on The Anarchist Cookbook. But this is a very different thing whereby all you have to do is download a file, press a button and a printer gives you a gun."

It's actually not that easy.

U.S. Senator Ed Markey (D-Mass.) made it sound as if anyone could make a 3D gun. "Bad people can go to Instagram and get an insta-gun!"

But that's silly, like so much of what Markey says.

"It's actually a very complicated process," explains Blackman. You need technological expertise and very specific materials. "It might take a full day of printing. You have to treat the plastic with chemicals so that they're strong enough. Even then, odds are, the gun's pretty crappy."

True. When my TV show tried one, it wouldn't fire.

But the technology will improve.

It's said that 3D guns will be "a windfall for terrorists."

"Terrorists have access to far more dangerous weapons," responds Blackman. "The notion that ISIS is...making these stupid little plastic guns that can fire one shot at a time strains credulity."

But can't plastic guns sneak past airport security?

"Bullets are made out of metal," notes Blackman. "Plastic and rubber bullets are not very effective."

America has a long tradition of people making their own guns, often for good reasons.

"If we had a ban on home manufacture of weapons during the time of the American Revolution, we would probably still be under the King's rule," cracked Blackman.

"It was a very different society," argues Linsky. "Now we have AR-15s."

Blackman had an answer for that: "Rights were enshrined in the Constitution for permanence.... They're there for the long haul."

Although Defense Distributed withdrew its blueprints, it continues to fight for the right to publish them online.

Seems kind of like a pointless fight to me, because in the short time before Defense Distributed withdrew its post, hundreds of other websites had copied it. They still host the blueprints.

Linsky hadn't realized that. When I showed some to him, he said, "I understand that some people might think that the genie is out of the bottle, but let's put as much of that genie back into the bottle as we possibly can."

But we can't put the genies back. Today, once information is out, it's out there forever. No government can pull it back.

Nevertheless, gun control advocates and the childish media will demand that "something be done!"

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CNN warned, "Tomorrow morning, the sun will be shining, the birds will be singing and anyone will be able to legally download instructions to 3D-print their own fully functional plastic gun!"

I liked Blackman's response:

"That happened. The world's the same," he said. "People are just fear-mongering."

Link: https://reason.com/2019/04/17/the-right-to-print-arms/

Matthew Marquis

Office of Congressional & Public Affairs Bureau of Political-Military Affairs (PM/CPA) U.S. Department of State

Phone: 202.647.6968

e-mail: MarquisMR@state.gov | Web: www.state.gov/t/pm / Twitter: @StateDeptPM

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From: Monjay, Robert [MonjayR@state.gov]

Sent: 4/22/2019 8:25:11 PM

To: Heidema, Sarah J [HeidemaSJ@state.gov]

Subject: Issue Paper 18 - Export Control and Cats I-III Updated 4-22-19
Attachments: Issue Paper 18 - Export Control and Cats I-III Updated 4-22-19.docx

Sarah,

Can you please review before I give to Jesse for clearances? everything you think should be in here and not more.

Thanks Rob

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Case 2:20-cv-00111-RAJ Document 106-13 Filed 09/23/20 Page 113 of 378

Message

From: Monjay, Robert [MonjayR@state.gov]

Sent: 4/23/2019 12:27:53 PM

To: Heidema, Sarah J [HeidemaSJ@state.gov]

Subject: Re: Issue Paper 18 - Export Control and Cats I-III Updated 4-22-19

Will do

Robert Monjay 202-663-2817 (office) (mobile)

From: Heidema, Sarah J

Sent: Tuesday, April 23, 2019 8:14:42 AM

To: Monjay, Robert

Subject: RE: Issue Paper 18 - Export Control and Cats I-III Updated 4-22-19

From: Monjay, Robert < MonjayR@state.gov> Sent: Monday, April 22, 2019 4:25 PM

To: Heidema, Sarah J < HeidemaSJ@state.gov>

Subject: Issue Paper 18 - Export Control and Cats I-III Updated 4-22-19

Sarah,

Can you please review before I give to Jesse for clearances? everything you think should be in here and not more.

I want to make sure I have

Thanks Rob

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Case 2:20-cv-00111-RAJ Document 106-13 Filed 09/23/20 Page 114 of 378

Message

From: Monjay, Robert [MonjayR@state.gov]

Sent: 4/23/2019 4:01:18 PM

To: Hong, Jesse J [HongJJ@state.gov]

Subject: Paper for clearance

Attachments: Issue Paper 18 - Export Control and Cats I-III Updated 4-22-19.docx

Jesse,

Can you please obtain the necessary clearances on the attached?

Thanks Rob

Robert J. Monjay

U.S. Department of State

Office of Defense Trade Controls Policy

Phone: 202.663.2817

Mobile:

Email: MonjayR@state.gov

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From: Carroll, Christienne [CarrollC@state.gov]

Sent: 4/23/2019 6:15:08 PM

To: Heidema, Sarah J [HeidemaSJ@state.gov]; Koelling, Richard W [KoellingRW@state.gov]; Monjay, Robert

[MonjayR@state.gov]; Hamilton, Catherine E [HamiltonCE@state.gov]; Dearth, Anthony M [DearthAM@state.gov];

Shin, Jae E [ShinJE@state.gov]; Davis, Terry L [DavisTL@state.gov]

CC: String, Marik A [StringMA@state.gov]; Miller, Michael F [Millermf@state.gov]; Brown, Stanley L

[BrownSL@state.gov]; Cressey, LauraE [CresseyLE@state.gov]; Darrach, Tamara A [DarrachTA@state.gov]; PM-CPA

[PM-CPA@state.gov]

Subject: Readout: Panel Discussion - "The Trump Administration's Gun Exports Plan: An Update"

Attachments: 4-23-19 Panel Discussion Handouts.pdf

Good afternoon,

PM/CPA monitored a panel discussion this morning organized by Congresswoman Torres' office entitled, *The Trump Administration's Gun Exports Plan: An Update*. The panel focused on concerns about the proposed CATS I-III rules changes, and garnering support for Rep. Torres and Rep. Engel's proposed *Prevent Crime and Terrorism Act* (HR 1134). Please see a rough readout below, and copies of the handouts are attached.

Readout

Opening comments

Lindsay Nichols (Giffords):

- Obama Administration started the export reform process but made the decision not to pursue the CATS I-III changes due to concerns about the diversion of items and violence abroad.
- The Trump Administration put these concerns aside—moving the export of guns and bullets to Commerce.
- The proposed changes dramatically increase the risk of arms falling into the wrong hands (e.g., human rights abusers and terrorists).
- Noted Senator Menendez's hold and Rep. Torres and Rep. Engels's proposal that would block the changes.
- The Administration says it is not a deregulation, but the rules are more lose and will allow the gun industry to make more money.
- The current Dept. of State system is developed. Commerce and State have different expertise and mandates.
- GAO's report in March flagged issues of concern regarding the export control of firearms.
- The gun lobby says licensing by the ATF would be OK, but the ATF does not monitor use in the same way.
- 3D Printing: The court order blocking the posting of code online would no longer be valid if guns are off the USML.

Kyleanne Hunter (Brady):

- Gun violence and small guns are a U.S. problem. Every 30 minutes someone in the U.S. dies from a U.S. manufactured gun. Over the last decade, there has been a 500% increase in gun violence and 1000% increase in deaths due to gun access.
- Where there is an influx of small arms, there is a sharp increase in homicides. Declassifying weapons will exacerbate gun violence.
- Noted that some say the ATF could be mandated to manage investigations into international gun exports—but the ATF is stretched already. It is currently only able to investigate 8% of federally licensed dealers. The ATF cannot adequately do its job in the U.S. let alone outside of the U.S.
- More guns to more areas means more conflicts—exporting gun violence issues.

Kristen Rand (Violence Policy Center):

• While many say the guns are not military guns, they have military utility. Semi-automatic weapons, handguns, and rifles are leaving the USML. These include semi-automatic assault rifles, AK-type assault rifles and

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Kalashnikovs. A Russian company is making these guns now in the U.S. and will be able to export them more easily.

- Semi-automatic pistols are virtually identical to those used by the U.S. military.
- Anti-armor sniper rifles deployed with many U.S. and NATO forces are prized by criminal organizations. They
 can shot down helicopters and pierce protective gear.
- The gun industry says the rule changes are a national security issue because they need a market to stay in business—but business is not a national security issue.

Jeff Abramson (Arms Control Association):

- In 2002, Congress said it wanted to be notified on arms sales over \$1 million and that resulted in Congress holding up questionable arms sales to The Philippines and Turkey. This will not happen once the rules go into effect.
- Transparency is needed.
- These types of weapons are the weapons of conflict. They drive conflict and human rights abuses.
- Functionally, semi and fully-automatic are the same. In Cameroon, semi-automatic weapons were used to execute people.
- Noted Rep. Tom Malinowski's comment during the 3/26 open hearing about the rules changes, that (per his
 previous experience leading DRL) Commerce will always vote to export.
- Concerns about peace, security and human rights should be a State not a Commerce issue.
- The move of these items to the CCL means Congress also loses visibility on violations.
- More stringent not less control is needed.

Colby Goodman (Transparency International Defence and Security):

- More transparency and less corruption is needed in the defense sector.
- Concerned about corruption in arms sales. Small cracks can become big gaps and contribute to insurgencies and organized crime.
- The U.S. needs to be at the forefront of combatting these issues. We were the first country to have laws on arms brokering. We added restrictions such as Congressional notifications and sped up the licensing process so the defense industry could get licenses processed. Now, there has been a big shift.
- Earlier this year, the OIG reported on major challenges with vetting. DDTC approved export licenses without having all the information. The OIG identified 17 that should have had Congressional notifications. There are also staff reduction issues.
- Congress has blocked at least three sales due to human rights concerns.
- There are challenges in illegally trafficking arms and these changes will make it worse.
- State has a private watch list database of 200,000 individuals of questionable backgrounds. The list will not be available to Commerce. Commerce is not asking State for this information for items that were previously transferred.
- Blue Lantern checks are hardly used by Commerce.
- The Administration says enforcement will still be strong, but there will be less oversight.

What should an export regime for these items should look like?

Kyleanne Hunger:

- Controls and lax U.S. gun laws make it easy to traffic guns.
- The ATF does not have resources. Bad dealers are responsible for the vast majority of exports of guns to Mexico and the Northern Triangle countries.
- Need to keep export controls and look at U.S. gun laws (e.g., universal background checks for private and internet sales, restrictions on bulk sales)

Kristen Rand:

• Weapons of choice in Mexico are semi-automatic, so an assault weapons ban would go far to eliminate access to these weapons of choice.

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- People can buy a lot more for international export.
- There are criminal, foreign policy and national security implications.
- The current system works for both control and for industry.
- Would like Congress to take a more active role of oversight.
- Need: More DDTC staff, more GAO reviews, more Congressional notifications, more State action

Jeff Abramson:

- Congress can pay more attention to the cases that are notified. DCS has very little transparency. Need more transparency on DCS cases.
- HFAC could make Congressional notifications public.
- Congress could expand rules for pre-delivery notification.
- State Department capability—help State get the needed resources.

Why are the proposed changes such a bad idea?

Lindsay Nichols:

No Congressional notification

Kristen Rand:

• Treating de facto military weapons as non-military weapons.

Jeff Abramson:

- Global violence—these are instruments of global violence.
- These items are still dangerous and deadly. Lives are on the line—should not let it slide.

Kyleanne Hunter:

- The easier it is to get weapons, the more deaths there are and more violations.
- Zero control on how the items are distributed when out of our hands.

Colby Goodman:

- Biggest issues: There is no good reason to support the move.
- The items could stay on the USML and be tinkered with to make it easier (i.e., reduce registration fees).

What are the "economics" behind 3D-gun printing

Lindsay Nichols:

- People think guns are cooler if they know how they work and they will buy more parts.
- Industry can sell equipment, accessories etc. designed for 3-D printing of guns.

Kristen Rand:

• Un-detectability of 3-D guns—no serial numbers.

Christienne Carroll

Office of Congressional & Public Affairs Bureau of Political-Military Affairs (PM/CPA) U.S. Department of State

Official

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US guns that will be easier to export under proposed rule

Bushmaster XM15 (AR-type rifle)



Glock Moor (Glock 1994)



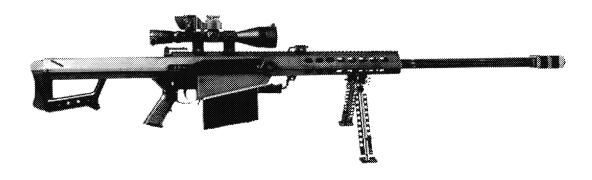
Kalashnikov KR-9



Sig Sauer XIII7



Barrett M82



Source: Violence Policy Center



middleeasteye.net

MANUFACTURERS MARKET GUNS TO CIVILIANS BY TOUTING SIMILARITIES TO MILITARY FIREARMS

SIG SAUER 2019 PRODUCT CATALOG

P320° M17

THE CHOSEN ONE

Selected as the official isosoph of the US. Arms for as uncodely imposably i



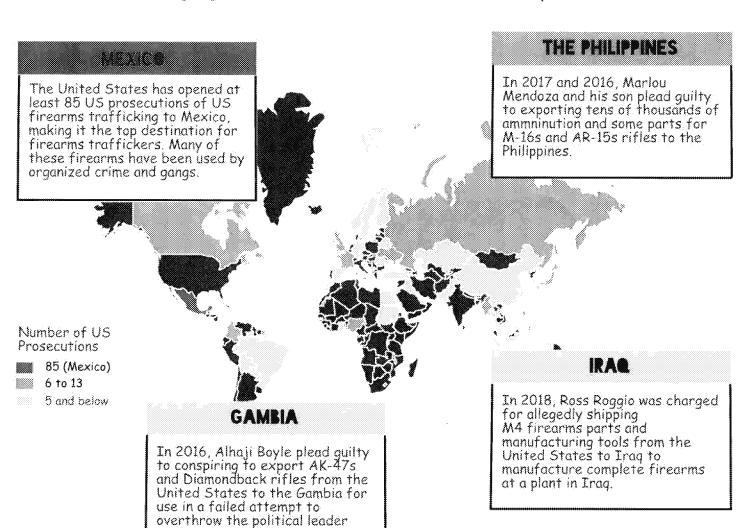


28 POLYMER

Cases: 20 m 001 12 RAI Posument 106 12 Filed 00/23/20 Case 120 of 378 HOT-SPOTS

By Colby Goodman

The United States continues to face major challenges in preventing US firearms and related parts from being illegally trafficked to countries around the world. Since 2010, the United States has opened at least 171 US prosections involving US firearms trafficking to over 50 countries, according to a report by Small Arms Survey and the Justice Department. The below chart highlights the destination countries of these prosecutions.



Matt Schroeder, "Dribs and Drabs: The Mechanics of Small Arms Trafficking from the United States," Issue Brief, Number 17, March 2016, online at http://www.smallarmssurvey.org/fileadmin/docs/G-Issue-briefs/SAS-IB17-Mechanics-of-trafficking.pdf.

Sources:

U.S. Department of Justice, "Summary of Major US Export Enforcement, Economic Espionage, and Sanctions-Related Criminal Cases," January 2019, online at https://www.justice.gov/nsd/page/file/1044446/download.

For more information, please contact Colbyagoodman@gmail.com

in Gambia in 2015.

Prevent Crime and Terrorism Act

Prevent Weakening of Firearms Export Regulations

Congresswoman Norma J. Torres (D-CA) and Eliot L. Engel (D-NY)

Endorsed by: Amnesty International, the Brady Campaign to Prevent Gun Violence, Giffords, Global Exchange, Latin America Working Group, Violence Policy Center

The proliferation of firearms and other small arms to terrorist groups and transnational criminal organizations poses a significant threat to our national security. Currently, the State Department reviews applications for licenses to export small arms and light weapons. However, the administration is proposing to transfer this oversight authority to the Commerce Department, moving dangerous items from the United States Munitions List (which is managed by the State Department) to the Commerce Control List (which is managed by the Commerce Department).

This proposal is dangerous for several reasons. For one, the granting of licenses for items under the Commerce Control List are not subject to congressional oversight. Additionally, under the Strategic Trade Authorization, items on the Commerce Control List can be exported to 36 different countries without needing to apply for any license. Furthermore, because its mandate and expertise, the State Department is better suited to ensuring that national security and foreign policy considerations are properly weighed when deciding about whether to grant or deny each particular license. With less oversight and more loopholes, and without the proper consideration of possible down sides, it is very likely that the administration's plan could be a boon for illegal weapons traffickers and their unsavory customers.

The Prevent Crime and Terrorism Act would prevent this dangerous proposal from moving forward.

Section-by-Section

SECTION 1: SHORT TITLE

SECTION 2: PROHIBITION ON REMOVAL OF CERTAIN ITEMS UNDER CATEGORIES I, II, AND III OF THE UNITED STATES MUNITIONS LIST.

• This section amends the Arms Export Control Act to lock in place Categories I, II, and III of the United States Munitions List, as of August 31, 2017.

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Message

From: Hong, Jesse J [HongJJ@state.gov]

Sent: 4/23/2019 6:44:59 PM

To: Heidema, Sarah J [HeidemaSJ@state.gov]
Subject: For your CLEARANCE: Issue Paper 18

Attachments: Issue Paper 18 - Export Control and Cats I-III Updated 4-22-19.docx

Hi Sarah,

Please see attached for your clearance the Issue Paper on Export and Control Categories I-III. Thank you very much!

Best,

Jesse J. Hong

Office of Defense Trade Controls Policy Bureau of Political-Military Affairs U.S. Department of State 202-663-2814 HongJl@state.gov

Official - SBU

UNCLASSIFIED

From: Foster, John A [FosterJA2@state.gov]

Sent: 4/23/2019 8:04:27 PM

To: Monjay, Robert [MonjayR@state.gov]

Subject: RE: Clearance Request by OOB 9/13 - Final Rule to Revise USML Categories I, II, and III

This is super helpful. Many thanks!

From: Monjay, Robert <MonjayR@state.gov> **Sent:** Tuesday, April 23, 2019 4:03 PM **To:** Foster, John A <FosterJA2@state.gov>

Subject: FW: Clearance Request by OOB 9/13 - Final Rule to Revise USML Categories I, II, and III

Importance: High





Thanks Rob

Official - SBU UNCLASSIFIED

From: Foster, John A < FosterJA2@state.gov > Sent: Friday, September 7, 2018 4:00 PM

To: Miller, Michael F < Millermf@state.gov >; Heidema, Sarah J < HeidemaSJ@state.gov >; Shin, Jae E < ShinJE@state.gov >; Hamilton, Catherine E < HamiltonCE@state.gov >; Dearth, Anthony M < DearthAM@state.gov >; PM-CPA < PM-CPA@state.gov >; Rogers, Shana A < RogersSA2@state.gov >; Kottmyer, Alice M < KottmyerAM@state.gov >; Shufflebarger, Jamie < ShufflebargerJ@state.gov >; Ravi, Sunil K < RaviSK@state.gov >; Urena, Michael A < UrenaMA@state.gov >; P EUR Duty < P-EURDuty@state.gov >; Brechwald, Matthew J < BrechwaldMJ@state.gov >; Abisellan, Eduardo < AbisellanE@state.gov >; Darrach, Tamara A < DarrachTA@state.gov >; Krueger, Thomas G < KruegerTG@state.gov >; McClung, Gailyn W < McClungGW@state.gov >; Shinnick, Julianne < ShinnickJ@state.gov >;

Case 2:20-cv-00111-RAJ Document 106-13 Filed 09/23/20 Page 124 of 378

Peckham, Yvonne M <<u>PeckhamYM@state.gov</u>>; Young, LaToya M <<u>YoungLM2@state.gov</u>>; Blaha, Charles O <BlahaCO@state.gov>

Cc: PM-DTCP-RMA < PM-DTCP-RMA@state.gov>

Subject: Clearance Request by OOB 9/13 - Final Rule to Revise USML Categories I, II, and III

Importance: High

Colleagues,

By way of background, on May 24, the Directorate of Defense Trade Controls (DDTC) published the attached notice of proposed rulemaking (NPRM) in the *Federal Register* (83 FR 24198) to amend the International Traffic in Arms Regulations (ITAR) to revise Categories I, II, and III of the U.S. Munitions List (USML) to describe more precisely the articles warranting export and temporary import control on the USML. The articles removed from the USML as a result of this proposed rule would become subject to the jurisdiction of the Department of Commerce (DoC) under the Export Administration Regulations (EAR), which includes the Commerce Control List (CCL).

The NPRM requested public comments regarding the proposed revisions to USML Categories I, II, and III. DDTC reviewed the comments we received and made a number of revisions to the proposed rule text based on them. DDTC now plans to publish the attached final rule to amend the ITAR accordingly. DDTC has been in regular contact about this rule with colleagues at both the Defense Technology Security Administration (DTSA) and DoC, which intends to publish a companion final rule in the *Federal Register* to adopt the articles being removed from the USML onto the CCL.

we kindly request your clearance NLT

OOB Thursday, September 13,

DDTC has consulted extensively with a number of State Department offices, as well as with DTSA and DoC, about the rule's content and implementation, so we anticipate the attached final rule text will require minimal editing at this stage. Please note that this document is approximately 75 pages long.

Please note that we have attached both a clean version of the final rule and a redline version with track changes to help you readily identify the differences between the final rule and the NPRM that your offices reviewed previously. If you have questions about the final rule text or about the publication process, please feel free to email me.

Thanks, John

John A. Foster

Office of Defense Trade Control Policy Bureau of Political-Military Affairs U.S. Department of State

Tel: 202-663-2816

Email: FosterJA2@state.gov

From: Monjay, Robert [MonjayR@state.gov]

Sent: 4/23/2019 10:24:24 PM

To: Hoppin, Kevin A. [kevin.hoppin@squirepb.com]

CC: Grammas, George N. [george.grammas@squirepb.com]

Subject: RE: Update on Cat I, II, and III for ECJU Brief in May

Kevin,

Unfortunately, I have to go with the "no idea" option. We have finished drafting the rules, got them approved by OMB and notified to Congress under 38(f). However, there is some final work being done and I do not have an estimate when that will be finished and they will published.

Thanks Rob

Official

UNCLASSIFIED

From: Hoppin, Kevin A. <kevin.hoppin@squirepb.com>

Sent: Tuesday, April 23, 2019 4:55 PM **To:** Monjay, Robert < Monjay R@state.gov>

Cc: Grammas, George N. <george.grammas@squirepb.com>; Hoppin, Kevin A. <kevin.hoppin@squirepb.com>

Subject: Update on Cat I, II, and III for ECJU Brief in May

Dear Mr. Monjay,

George Grammas is headed to the UK in May to brief at the Export Control Joint Unit (ECJU) Export Control Symposium as a representative of EGADD.

He is updating his slides and asked me if I knew the status of the changes for USML Categories I, II and III. I told him the proposed rules were published 24 May 18, but that I have not heard anything about a final rule. We were hoping you might be able to give us an update on when you think they are going to be published. He can then add this to his slides.

We understand this might be tight lipped, and you may not have a good answer, but any indication would be helpful (and "no idea" is also a good answer).

Thanks again for your help!

V/R

Kevin



Kevin A. Hoppin Export Controls Specialist Squire Patton Boggs (US) LLP 2550 M Street, NW Washington, DC 20037 T +1 202 626 6268 O +1 202 457 6000

F +1 202 457 6315 M +1 703 314 9357

kevin.hoppin@squirepb.com | squirepattonboggs.com

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#US		

From: Hoppin, Kevin A. [kevin.hoppin@squirepb.com]

Sent: 4/24/2019 3:08:28 AM

To: Monjay, Robert [MonjayR@state.gov]

CC: Grammas, George N. [george.grammas@squirepb.com]; Hoppin, Kevin A. [kevin.hoppin@squirepb.com]

Subject: RE: Update on Cat I, II, and III for ECJU Brief in May

Awesome,

Thanks for the information!

V/R

Kevin



Kevin A. Hoppin Export Controls Specialist Squire Patton Boggs (US) LLP 2550 M Street, NW Washington, DC 20037

T +1 202 626 6268 O +1 202 457 6000 F +1 202 457 6315 M +1 703 314 9357

kevin.hoppin@squirepb.com | squirepattonboggs.com

From: Monjay, Robert < MonjayR@state.gov>

Sent: Tuesday, April 23, 2019 6:24 PM

To: Hoppin, Kevin A. <kevin.hoppin@squirepb.com>

Cc: Grammas, George N. <george.grammas@squirepb.com>
Subject: [EXT] RE: Update on Cat I, II, and III for ECJU Brief in May

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Official

UNCLASSIFIED

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Sent: Tuesday, April 23, 2019 4:55 PM
To: Monjay, Robert < MonjayR@state.gov>

Cc: Grammas, George N. <george.grammas@squirepb.com>; Hoppin, Kevin A. <kevin.hoppin@squirepb.com>

Subject: Update on Cat I, II, and III for ECJU Brief in May

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Case 2:20-cv-00111-RAJ Document 106-13 Filed 09/23/20 Page 128 of 378

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V/R

Kevin



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#US	

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Message

From: Hong, Jesse J [HongJJ@state.gov]

Sent: 4/25/2019 2:40:44 PM

To: Heidema, Sarah J [HeidemaSJ@state.gov]
Subject: For your CLEARANCE: Issue Paper 18

Attachments: Issue Paper 18 - Export Control and Cats I-III Updated 4-22-19.docx

Hi Sarah,

Please see attached for your clearance the Issue Paper on Export and Control Categories I-III. Thank you very much!

Best,

Jesse J. Hong

Office of Defense Trade Controls Policy Bureau of Political-Military Affairs U.S. Department of State 202-663-2814 HongJJ@state.gov

Official - SBU UNCLASSIFIED

From: Marquis, Matthew R [MarquisMR@state.gov]

Sent: 4/26/2019 4:27:46 PM

To: PM-DTCP-Tasking-DL [PM-DTCP-Tasking-DL@state.gov]; Legal-PM-DL [Legal-PM-DL@state.gov]

CC: PM-CPA [PM-CPA@state.gov]; String, Marik A [StringMA@state.gov]; Miller, Michael F [Millermf@state.gov]

Subject: CPA Media Monitoring: Politico: Trump supports gun rights, but even he sees limits



Trump supports gun rights, but even he sees limits By Adam Behsudi 26 April 2019

President Donald Trump will tout the rights of gun owners Friday when he speaks at the National Rifle Association's annual convention, but he's standing in the way of a new policy that could give the firearms industry a major export boost.

The industry is eagerly awaiting the publication of a final rule that would ease exports of firearms and ammunition, but the process has been stalled over the president's concerns with the publication of 3D printed gun technology, according to two sources with direct knowledge of the issue.

"He's giving a win to the gun control advocates at the expense of the industry that supported him," said one industry official.

As part of the final rule, the White House is trying to determine how to restrict the publication of technical plans for 3D printed firearms — an effort that has already run into legal problems because of a potential violation of free speech rights in the Constitution.

Trump has weighed in on the issue over Twitter, saying last summer that he was "looking into 3-D Plastic Guns being sold to the public."

"Already spoke to NRA, doesn't seem to make much sense!" he tweeted.

Trump's commentary came shortly after the State Department last year settled a case brought by Defense Distributed, an organization that publishes open-source digital plans for 3D firearms online. The organization and gun-rights groups sued the Obama administration after it tried to restrict the publication of technical plans for a 3D printed gun.

The government was destined to lose the case because publicly available information is generally not subject to export regulations. Government restrictions on the publication of such information can also run afoul of the First Amendment.

It's an issue the U.S. government has struggled with for several decades as it tries to keep foreign entities from obtaining new weapons.

The administration is trying to finalize the new rule, which would transfer export oversight of most firearms and ammunition from the stringent control of the State Department to more export-friendly Commerce Department regulations.

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The rule is the final piece of a broader effort started by the Obama administration to streamline the country's export-control system for weapons and technology that have both civilian and military uses. The initiative aimed to give companies more flexibility to export commercially available items while still safeguarding national security.

Then-President Barack Obama held off on easing export regulations on firearms and ammo amid an escalation of mass shootings. Shortly after taking office, the Trump administration moved forward with the proposed rule.

Now, Trump's hesitation on issuing the new rule makes him an unexpected ally with congressional Democrats.

The change has raised scrutiny on Capitol Hill. In a letter to Secretary of State Mike Pompeo in February, Sen. Bob Menendez (D-N.J.) announced an informal hold on the State Department's request to transfer responsibility for the export control of firearms and ammunition to Commerce.

Menendez, the ranking Democrat on the Senate Foreign Relations Committee, also worried about the publication of plans for 3D printed weapons, saying the rule would "open the floodgates of information for the 3D printing of nearly undetectable firearms and components by foreign persons and terrorists that intend to harm U.S. citizens and interests."

The lawmaker said moving forward with the rule without restrictions on 3D printed technology could be at odds with a recently passed law that authorizes the Commerce Department to develop new restrictions on exports of "emerging and foundational" technologies. The Commerce Department highlighted 3D printing as an area of emerging technology, Menendez noted.

House lawmakers have also introduced legislation that would block the move.

But sources said it is Trump's position on the matter, not Democratic concerns, that has brought publication of the rule to a halt.

"It was really his tweet that stopped everything," said one of the sources with knowledge of the process.

The White House and Commerce Department declined to comment on the issue.

"Nobody wants to tell [Trump] he is wrong," said the industry source, who estimated that the rule could increase exports of firearms companies by 15 percent annually if the regulations were eased.

The Trump administration's State Department has also expressed support for the rule, saying that the transfer of items to the Commerce Department will not jeopardize national security.

"These changes will significantly reduce the regulatory burden on the U.S. commercial firearms and ammunition industry, promote American exports, and clarify the regulatory requirements for independent gunsmiths, while at the same time prioritizing national security controls and continuing our ability to restrict exports where human rights, illicit trafficking, and related issues may be of concern," a State Department official said in a statement.

Others on Capitol Hill are trying to prod the change along. Sen. Jim Risch (R-Idaho), chairman of the Foreign Relations Committee, which has jurisdiction over the issue, said that he did not support any further delays in the process.

A spokesperson for the lawmaker dismissed concerns over 3D printed weapons, noting that any firearm not detectable to magnetometers or X-rays has been illegal in the U.S. since Congress passed a 1988 law that applies regardless of how the gun is made.

"This rule will complete a scrub of the [State Department] U.S. Munitions List that began in 2010, which is long overdue," Risch said in a statement.

Despite the legal question over 3D printed gun plans, proponents of the rule say the movement of firearms and ammunition to the Commerce Department does not mean those items will be freely exported with no oversight.

Many items from other categories that were transferred are eligible for a broad exception from export license requirements. However, firearms that transfer to Commerce Department controls will be excluded from that exception. Fully automatic weapons will also remain under the control of the State Department.

The firearms industry has complained that the delay in the rule has deprived them of benefits other industries are now reaping from a relaxation of export control rules. Regulatory changes could help sales of hunting rifles overseas and better compete for lucrative contracts to supply military and police units with semi-automatic weapons.

Under State Department regulations, transactions to sell firearms overseas that are worth more than \$1 million are subject to congressional notification. Manufacturers could bypass that time-consuming process if those items fall under Commerce Department export rules. Smaller gunsmiths, who may not ever export, could also potentially escape a \$2,200 annual registration fee that the State Department charges if their products move to Commerce control.

So far, the NRA, which supports the rule, hasn't made the delay a major issue, but if it stretches too much longer, it could cause a rift with the administration.

"When gun owners find out, this could cause a political problem," said the industry source.

Link: https://www.politico.com/story/2019/04/26/trump-gun-rights-limits-1384930

Matthew Marquis

Office of Congressional & Public Affairs Bureau of Political-Military Affairs (PM/CPA) U.S. Department of State

Phone: 202.647.6968

e-mail: MarquisMR@state.gov | Web: www.state.gov/t/pm / |Twitter: @StateDeptPM

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Message

From: Johnson, Clifton M [JohnsonCM5@state.gov]

Sent: 5/3/2019 3:55:35 PM

To: Visek, Richard C [VisekRC@state.gov]; Dorosin, Joshua L [DorosinJL@state.gov]

CC: Kottmyer, Alice M [KottmyerAM@state.gov]

Subject: Action Needed on AM relating to Spring Unified Agenda

Attachments: Tab 4 - Delegation of Authority 401.pdf; Tab 1 - Preamble to the Agenda Spring 2019.docx; Tab 2 -- Rules on the

Spring 2019 Agenda.xlsx; Tab 3 -- Menendez Letter on Hold on CAT I-III Transfer.pdf; L to M AM on Spring 2019

Unified Agenda (3-14-2019).docx

Rich/Josh,



Official - SBU UNCLASSIFIED

Official

UNCLASSIFIED

From: Kottmyer, Alice M <KottmyerAM@state.gov>

Sent: Thursday, March 14, 2019 12:00 PM **To:** Dorosin, Joshua L <<u>DorosinJL@state.gov</u>>

Cc: Johnson, Clifton M < Johnson CM5@state.gov >; Nightingale, Robert L < Nightingale RL@state.gov >; Williams, Veronica

X < Williams Vx@state.gov>; Kottmyer, Alice M < Kottmyer AM@state.gov>

Subject: ** FOR REVIEW ** Department submission for the Spring Unified Agenda

Case 2:20-cv-00111-RAJ Document 106-13 Filed 09/23/20 Page 134 of 378

Josh,

The draft Action Memo from Jennifer to Ambassador Todd for the Spring 2019 Unified Agenda submission is attached for your clearance.

Thanks Alice

Official

UNCLASSIFIED

JAMES E. RISCH, IDARO, CHAIRMAN

MARCO BUBIO, FLORIDA ROBI JUNISSON, WISCONSIN CORT GRADRER, COLORADO MET ROMNEY, UTAN LINOSEY GRAHAM, SOUTH CARDEINA JONNIY ISAKEON, GEORGIA JONNIY ISAKEON, GEORGIA JONNIY ISAKEON, GEORGIA ROB PORTRANI, CHIQ RAMO PALA, KENTUCKY TGOD YOUNG, RIDSANA TEO CRUZ, LEKAS ROBERT MEMBELS, NEW JEBSEY
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JEANNE SHAMEEN, NEW HAMPSHIRE
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CHRISTOPHER MURPHY, CORNECTICUT
TIM KAINE, VIRGINIA
EDWAND J. MARKEY, MASSACHOSETTS
JEFF MERKLEY, OREGON
CORY A. SOOVER, NEW JERSEY

United States Senate

COMMITTEE ON FOREIGN RELATIONS
WASHINGTON, DC 20510-6225

February 22, 2019

The Honorable Mike Pompeo Secretary of State U.S. Department of State 2201 C Street, N.W. Washington, D.C. 20520

Dear Secretary Pompeo:

On February 4, 2019, I received a congressional notification from the Department for a proposal to transfer responsibility for the export control of firearms and ammunition from the United States Munitions list (USML) to the Commerce Control List (CCL). I write to inform you that I am placing a hold on the congressional notification, pursuant to the authority of Section 38(f) of the Arms Export Control Act (AECA).

I am deeply concerned about this proposed transfer. As you no doubt are aware, firearms and ammunition – especially those derived from military models and widely used by military and security services – are uniquely dangerous. They are easily modified, diverted, and proliferated, and are the primary means of injury, death, and destruction in civil and military conflicts throughout the world. As such, they should be subject to more, not less, rigorous export controls and oversight.

Combat rifles, including those commonly known as "sniper rifles," should not be removed from the USML, nor should rifles of any type that are U.S. military-standard 5.56 (and especially .50 caliber). Semi-automatic firearms should also not be removed, and neither should related equipment, ammunition, or associated manufacturing equipment, technology, or technical data.

Consequently, my hold will remain in place until such time as the issues identified below are sufficiently addressed.

1) Removal of Firearms Exports from Congressional Information and Review
The AECA enables congressional review of exports of lethal weapons to ensure that they comport with U.S. foreign policy interests. Congress took action in 2002 to ensure that the sale and export of these weapons would receive stringent oversight, including by amending the AECA to set a lower reporting threshold (from \$14 million to \$1 million) specifically for firearms on the USML. Moving such firearms from the USML to the CCL would directly

contradict congressional intent and effectively eliminate congressional oversight and potential disapproval of exports of these weapons. Congressional oversight must be retained.

2) Proliferation of 3D Gun Printing Technical Information

There is a serious risk that this transfer will open the floodgates of information for the 3D printing of nearly-undetectable firearms and components by foreign persons and terrorists that intend to harm U.S. citizens and interests. The Department of Commerce claims that it cannot, by its own regulations, prevent the publication, including on the Internet for global consumption, of technical information and blueprint files that would enable this 3D production, if such information has once been published, even illegally. This is outrageous and simply unacceptable given the dangers it poses to U.S. citizens and interests.

Moreover, it may also be at variance with recent law. Section 1758 of the Export Control Reform Act of 2018 authorizes the Secretary of Commerce to control "emerging and foundational technologies" that (A) are essential to the national security of the United States; and (B) are not critical technologies described in clauses (i) through (v) of section 721(a)(6)(A) of the Defense Production Act of 1950. 3D printing has been identified by this Administration as an emerging technology of concern, and the Department of Commerce itself used 3D printing as an example of "emerging technology" in its November 19, 2018 Federal Register notice seeking public comment on what constitutes emerging technologies pursuant to this new statutory charge. Then-Secretary of Defense Mattis twice mentioned the challenges of 3D printing in congressional testimony, and Director of National Intelligence Coats, in his 2018 Worldwide Threat Assessment of the U.S. Intelligence Community, stated that, "[a]dvances in manufacturing, particularly the development of 3D printing, almost certainly will become even more accessible to a variety of state and non-state actors and be used in ways contrary to our interests."

It would seem axiomatic that the capability to 3D-print lethal weaponry that cannot easily or reliably be detected by metal detectors at airports, schools, governmental or other facilities (including the U.S. Capitol and the Department of State) would qualify as an emerging technology in need of regulatory control. Yet, the Commerce Department has told my staff that the interagency process to identify emerging and foundational technologies to be controlled has not been completed, and is unlikely to be completed for months. By proceeding with the transfer of firearms, including 3D printing technical information, to Commerce, the Administration is acting recklessly and endangering innocent lives. It should go without saying that we collectively need to understand the threat and have a plan to address this issue before making the regulatory change.

Moreover, the Department of Commerce would seem to have adequate additional regulatory authority to control 3D gun printing information, at least temporarily. Commerce can control any item for foreign policy reasons under the miscellaneous category of 0Y521, according to a final rule issued by Commerce in 2012. Preventing foreign terrorists and thugs from acquiring

the means to print undetectable guns to use against U.S. citizens is a sufficient foreign policy justification to control this technology from public release.

Ultimately, the specific provision of the Export Administration Regulations is cited as preventing Commerce from controlling the publication of 3D Printed guns in the longer term needs to be rewritten to permit this control. Until that occurs, or until Commerce determines that such technical information can and will be controlled, this technical information cannot and should not be transferred from USML to the CCL.

I look forward to your prompt response to my concerns.

Sincerely,

Robert Mehendez

Ranking Member

CC: The Honorable Wilbur Ross, U.S. Secretary of Commerce

From: Jim Bartlett, Full Circle Compliance [jebartlett@fullcirclecompliance.eu]

Sent: 5/15/2018 6:51:42 PM **To**: pauljm@state.gov

Subject: 18-0515 Tuesday "Daily Bugle"

		Nation recognision																			

Tuesday, 15 May 2018

The Daily Bugle is a free daily newsletter from Full Circle Compliance, containing changes to export/import regulations (ATF, DOE/NRC, Customs, NISPOM, EAR, FACR/OFAC, FAR/DFARS, FTR/AES, HTSUS, and ITAR), plus news and events. Subscribe here for free subscription. Contact us for advertising inquiries and rates.

ITEMS FROM FEDERAL REGISTER

- 1. President Continues National Emergency with Respect to Yemen
- 2. Commerce Initiates Investigation under Section 232 of the Trade Expansion Act

OTHER GOVERNMENT SOURCES

- 3. Items Scheduled for Publication in Future Federal Register Editions
- 4. Commerce/BIS Publishes Proposed Rule Concerning Shift of USML Cats I, II, and III to EAR/CCL
- State/DDTC Publishes Notice Concerning Proposed Shift of ITAR/USML Cats I, II, and III to EAR/CCL
- 6. EU Amends Restrictive Measures Concerning Libya
- 7. UK Government Posts Guidance Concerning Iran
- 8. Singapore Customs Announces Joint-Customs-CA Seminar on 21 May 2018

NEWS

- Deutsche Welle: "German Arms Firm H&K's Ex-Staff on Trial over Mexico Gun Deal"
- 10. <u>Reuters: "U.S. Imposes Sanctions Against Iran Central Bank Governor, Iraq-</u> Based Bank"
- 11. The Washington Times: "Trump Administration Moves to Shift Small Arms Gun Export Approval from State Department to Commerce"

COMMENTARY

- 12. <u>D.M. Edelman: "Trump Cancels Iran Deal: Can Your Company Still Do</u> Business?"
- 13. G. Husisian: "The Twelve Compliance Steps Every Multinational Corporation Should Undertake in Light of Recent Trump Administration Enforcement Activity" (Part I of IV)
- 14. O. Coulon, G. Kreijen & B. Gevers: "While EU Countries Reaffirm their Commitment to the JCPOA, EU Companies Brace for Impact"
- 15. Gary Stanley's EC Tip of the Day

EXIM TRAINING EVENTS & CONFERENCES

16. ECS Presents "ITAR/EAR Boot Camp (Seminar Level I)" on 10-11 Jul in Long Beach, CA

- 17. Bartlett's Unfamiliar Quotations
- 18. Are Your Copies of Regulations Up to Date? Latest Amendments: ATF (15 Jan 2016), Customs (12 Apr 2018), DOD/NISPOM (18 May 2016), EAR (5 Apr 2018), FACR/OFAC (19 Mar 2018), FTR (24 Apr 2018), HTSUS (4 May 2018), ITAR (14 Feb 2018)
- 19. Weekly Highlights of the Daily Bugle Top Stories

ITEMS FROM TODAY'S FEDERAL REGISTER

1. President Continues National Emergency with Respect to Yemen

(Source: Federal Register, 15 May 2018.)

83 FR 22582: Continuation of the National Emergency with Respect to Yemen

On May 16, 2012, by Executive Order 13611, the President declared a national emergency pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701-1706) to deal with the unusual and extraordinary threat to the national security and foreign policy of the United States constituted by the actions and policies of certain former members of the Government of Yemen and others that threaten Yemen's peace, security, and stability. These actions include obstructing the political process in Yemen and blocking implementation of the agreement of November 23, 2011, between the Government of Yemen and those in opposition to it, which provided for a peaceful transition of power that meets the legitimate demands and aspirations of the Yemeni people.

The actions and policies of certain former members of the Government of Yemen and others in threatening Yemen's peace, security, and stability continue to pose an unusual and extraordinary threat to the national security and foreign policy of the United States. For this reason, the national emergency declared on May 16, 2012, to deal with that threat must continue in effect beyond May 16, 2018. Therefore, in accordance with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am continuing for 1 year the national emergency declared in Executive Order 13611.

This notice shall be published in the Federal Register and transmitted to the Congress.

[Presidential Signature.]

THE WHITE HOUSE, May 14, 2018.

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2. Commerce Initiates Investigation under Section 232 of the Trade Expansion Act

(Source: Federal Register, 15 May 2018.) [Excerpts.]

83 FR 22441: Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

- Agency: Bureau of Industry and Security.
- Title: Request for Investigation under Section 232 of the Trade Expansion Act.
 - Form Number(s): N/A.
 - OMB Control Number: 0694-0120.
 - Type of Review: Regular submission. ...

- Needs and Uses: Upon request, BIS will initiate an investigation to determine the effects of imports of specific commodities on the national security, and within 270 days BIS will report to the President the findings and a recommendation for action or in-action. Within 90 days after receiving the report, the President shall determine whether to concur or not concur with the findings and recommendations. No later than 30 days after a decision, the determination will be published in the Federal Register and reported to Congress. The purpose of this collection is to account for the public burden associated with the surveys distributed to determine the effect of imports of specific commodities on the national security. ...

Sheleen Dumas, Departmental Lead PRA Officer, Office of the Chief Information Officer.

back to top

other covernier cources

3. Items Scheduled for Publication in Future Federal Register Editions (Source: Federal Register)

* Treasury; NOTICES; List of Countries Requiring Cooperation with International Boycott [Publication Date: 16 May 2018.]

back to top

4. Commerce/BIS Publishes Proposed Rule Concerning Shift of USML Categories I, II, and III to CCL (Source: Commerce/BIS, 15 May 2018.) [Excerpts.]

This proposed rule [available in PDF here] describes how articles the U.S. President determines no longer warrant control under United States Munitions List (USML) Category I - Firearms, Close Assault Weapons and Combat Shotguns; Category II - Guns and Armament; and Category III - Ammunition/Ordnance would be controlled under the Commerce Control List (CCL). This proposed rule is being published simultaneously with a proposed rule by the Department of State that would revise Categories I, II, and III of the USML to describe more precisely the articles warranting continued control on that list. ...

In this proposed rule, items that are currently controlled in Category II of the USML would be controlled on the CCL under four new "600 series" ECCNs.

Placement of the items currently in USML Category II into the CCL's 600 series would be consistent with existing BIS practice of using 600 series ECCNs to control items of a military nature.

Items currently controlled in Categories I and III of the USML would be controlled in new ECCNs in which the third character is a "5." These items are not appropriate for 600 series control because, for the most part, they have civil, recreational, law enforcement, or other non-military applications. As with 600 series ECCNs, the first character would represent the CCL category, the second character would represent the product group, and the final two characters would represent the WAML category that covers items that are the same or similar to items in the ECCN.

This proposed rule does not de-regulate the transferred items. BIS would require licenses to export or reexport to any country a firearm or other weapon currently on the USML that would be added to the CCL by this proposed rule. BIS would also require licenses for the export or reexport of guns and armament that would be controlled under new ECCN 0A602, such as guns and armaments manufactured between 1890 and 1919 to all destinations except Canada.

As compared to decontrolling firearms and other items, in publishing this proposed rule, BIS, working with the Departments of Defense and State, is trying to reduce the procedural burdens and costs of export compliance on the U.S. firearms industry while allowing the U.S. Government to enforce export controls for firearms appropriately and to make better use of its export control resources. BIS encourages comments from the public on this aspect of the proposed rule. ...

back to top



State/DDTC Publishes Notice Concerning Proposed Shift of USML Categories I, II, and III to CCL

(Source: State/DDTC, 15 May 2018.)

The Department of State proposes to amend the International Traffic in Arms Regulations to revise Categories I (firearms, close assault weapons and combat shotguns), II (guns and armament) and III (ammunition and ordnance) of the U.S. Munitions List (USML) to describe more precisely the articles warranting export and temporary import control on the USML. Items removed from the USML would become subject to the Export Administration Regulations (EAR). See <u>Cat I-III Combined PR - FRN FINAL.PDF</u>

The Department of Commerce proposes to amend the Export Administration Regulations to describe how the items that transfer to the EAR will be controlled. See <u>05.4.18 Signed Commerce firearms proposed rule for sending to OFR for publication</u>.

[Editor's Note: this notice is published simultaneously with the BIS notice, included in today's Daily Bugle, item #4 above.]

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EU Amends Restrictive Measures Concerning Libya (Source: Official Journal of the European Union, 15 May 2018.)

Regulations

* Commission Implementing Regulation (EU) 2018/711 of 14 May 2018 amending Council Regulation (EU) 2016/44 concerning restrictive measures in view of the situation in Libya

Decisions

* Council Implementing Decision (CFSP) 2018/713 of 14 May 2018 implementing Decision (CFSP) 2015/1333 concerning restrictive measures in view of the situation in Libya

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UK Government Posts Guidance Concerning Iran (Source: UK DIT/EJCU, 15 May 2018.) [Excerpts.]

The Export Control Joint Unit (EJCU) of the UK Department of International Trade (DIT) has published the following guidance on its website:

On 8 May 2018 the President of the United States confirmed that the US will begin the process of re-imposing all US sanctions previously waived under the Joint Comprehensive Plan of Action (JCPoA). Read more about this development.

The UK government fully supports expanding our trade relationship with Iran and encourages UK businesses to take advantage of the commercial opportunities that will arise. Department for International Trade (DIT) is in Tehran to support bilateral trade and investment. However, some sanctions remain in place so UK businesses should continue to ensure they are compliant with all sanctions regimes.

On 14 July 2015, the E3+3 (UK, France, Germany, Russia, China and USA) the EU and Iran reached a comprehensive agreement on Iran's nuclear program. This concluded over a decade of negotiations between the international community and Iran. Through the successful implementation of this deal, Iran can demonstrate its commitment to an exclusively peaceful

nuclear program. Most financial and economic sanctions against Iran have now been lifted, following the International Atomic Energy Agency's verification that Iran had completed all necessary steps to reach Implementation Day (16 January 2016). Read the full text of the agreement and annexes. ...

The UK government fully supports expanding our trade relationship with Iran. Iran has now received extensive economic and financial sanctions relief and will be able to trade more freely with the rest of the world. We want to help British businesses take advantage of the opportunities that economic reengagement with Iran will bring.

UK Export Finance (UKEF), the UK's export credit agency, has reintroduced cover in to support UK companies competing for business in Iran. Cover is now available on a case-by-case basis in Pounds Sterling and Euros. Within this, and in recognition of the UK's place as a global center of excellence for financial and professional services, UKEF will make available an initial £50 million facility guaranteeing payments to UK professional advisory service providers advising the Government of Iran. UKEF will also consider applications for direct lending from purchasers of British exports to Iran. Find out more about UKEF's cover for Iran here.

DIT will be engaging with UK businesses to provide support and assistance to help ensure UK business benefits from opportunities as they arise. UKTI based both in the UK and in the British Embassy in Tehran will play an important role in supporting trade and investment between our 2 countries.

Although most economic and financial sanctions have now been lifted, some sanctions will remain in place and are not affected by the deal. In particular sanctions related to human rights, proliferation and Iran's support for terrorism remain in place. You will wish to consider in particular, if you are dealing with a designated person or entity, whether a certain trade product or material is restricted, and how and to whom payments will be made. UK companies will also want to consider whether their proposed activity is subject to US sanctions. It is important to ensure appropriate due diligence measures are undertaken before engaging in any activity. Iran will remain a difficult place to do business so if in doubt you should seek legal advice.

More Information on Doing Business with Iran

- For more information on Doing Business with Iran <u>see our Guide to Doing</u> Business with Iran and FAQs
 - Find out more about <u>UKEF's country cover for Iran here</u>.
- The EU has published an information note on the EU Sanctions to be lifted under the JCPoA and it is available on the <u>Europa website</u>.
- The US Office of Financial Asset Control has issued guidance on Iran and it is available on the US Department of the Treasury website.
- The Export Control Organization has issued <u>Notice to Exporters</u> 2016/05 on this development.

Prohibited Activities

The following activities remain banned under the proliferation-related sanctions:

- sale, supply, transfer or export to Iran, of all military goods and technology as listed in the UK Military List
- sale, supply, transfer or export of missile-related goods and technology as listed in Annex III of Council Regulation (EU) 267/2012
- provision of technical assistance, brokering services and financial assistance related to the above
 - import from Iran of military and missile-related goods and technology
- investment in Iranian enterprises engaged in manufacture of military goods, and a ban on investment by an Iranian person in a commercial activity related to production or use of missile-related goods

The following is prohibited under the sanctions imposed in view of the human rights situation in Iran as set out in <u>Council Regulation (EU) 264/2012</u>:

- sale, supply, transfer or export of equipment which might be used for internal repression as listed in Annex III of Council Regulation (EU) 264/2012
- provision of technical assistance, brokering services and financial assistance related to the above.

In addition, restrictive measures remain in place against individuals and entities who remain listed in <u>Council Regulation 267/2012</u> and in <u>Council Regulation 264/2012</u>, as well as under EU terrorism and other EU sanctions regimes.

UK businesses should ensure they are compliant with all remaining sanctions regimes. It is important to conduct due diligence and ensure compliance with sanctions regimes before signing business contracts, as with any market.

Activities that Require a License

The following activities require a license under the proliferation-related sanctions:

- sale, supply, transfer or export of nuclear-related items as listed in Annex I of the Regulation
- provision of technical assistance, brokering services and financial assistance related to items listed in Annex I of the Regulation
- investment by an Iranian person, entity or body in a commercial activity related to uranium mining or the manufacture of items listed in Annex I of the Regulation

These nuclear-related activities can only be authorized if they have been approved in advance by the UN Security Council through the newlyestablished Procurement Channel. UK persons wishing to supply these goods or services to Iran, or to accept an investment by an Iranian person, must seek a license from the Export Control Organization (ECO) in the Department

of DIT. The ECO will consider the application and where appropriate seek the required authorization from the UN. The ECO has published <u>detailed guidance</u> on the Procurement Channel.

A license is also required for:

- sale, supply, transfer or export of nuclear-related items as listed in Annex II of the Regulation
- provision of technical assistance, brokering services and financial assistance related to items listed in Annex II of the Regulation
- investment by an Iranian person, entity or body in a commercial activity related to the items listed in Annex II of the Regulation

These items are not subject to the Procurement Channel process. Sanctions imposed in view of the human rights situation in Iran are set out in <u>Council Regulation (EU) 264/2012</u>. The following requires a license:

- sale, supply, transfer or export of equipment which might be used for the monitoring or interception of internet or telephone communications as listed in Annex IV of the Regulation
- provision of technical assistance, brokering services and financial assistance related to items listed in Annex IV of the Regulation
- provision of telecommunication or internet monitoring or interception services of any kind to, or for the direct or indirect benefit of, Iran's government, public bodies, corporations and agencies or any person or entity acting on their behalf or at their direction

Financial sanctions may still be relevant to your transaction, including interaction with those persons and entities that remain designated. It is your responsibility to ensure you comply with financial sanctions. For more information see the HM Treasury guidance relating to nuclear proliferation and <a href="https://doi.org/10.1001/journal.org/10.

- Financial sanctions, Consolidated List

End-use Controls

If your items are not listed specifically as a result of specific sanctions regulations, you may still need a license under so-called 'end-use controls'. This aspect of export controls covers licensing of items that might potentially be used in a Weapons of Mass Destruction (WMD) program or military goods. These controls are outlined in Article 4 of Council Regulation 428/2009 (the EU Dual-Use Regulation) and in the Export Control Order 2008.

For more information on end-use controls, see the guide on <u>WMD End-Use</u> <u>Control and Military End-Use Control</u>.

If you have any concerns about exporting to an end-user in Iran, you should consider seeking advice from the ECO End-User Advice Service. ...

8.

Singapore Customs Announces Joint-Customs-CA Seminar on 21 May 2018

(Source: Singapore Customs, Notice No. 07/2018, 9 May 2018.)

As part of its ongoing efforts to share Customs requirements with the business community, Singapore Customs together with some Competent Authorities (CA) will be organizing a Joint Customs-CA Seminar on 21 May 2018.

The details of the program are available <u>here</u>.

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9.

Deutsche Welle: "German Arms Firm H&K's Ex-Staff on Trial over Mexico Gun Deal"

(Source: <u>Deutsche Welle</u>, 15 May 2018.) [Excerpts.]

Six ex-employees of Heckler & Koch have gone on trial in Stuttgart for selling assault rifles to Mexico. Activists held a vigil for victims of those believed to be killed by the German gun-maker's arms outside the court.

It took eight years for the proceedings to make it this far, but on Tuesday the German state's case against the country's most infamous gun-maker - which also supplies small arms to many NATO countries - was finally brought to trial.

Six former employees of Heckler & Koch stood accused of violating Germany's War Weapons Control Act and its Foreign Trade Act by selling thousands of G36 assault rifles to Mexico - while knowing full well that they would be used in four violence-ridden Mexican states. ...

"This is the biggest small arms trial this country has ever seen - this is a huge success, because this shadowy arms export approval system will be made public," [attorney Holger] Rothbauer said. "But pawn sacrifices are being made - and why? Because the system only wants one part to be put in

the dock: namely the representatives of the arms industry, and not the political representatives, and not the representatives of the export control authorities." ...

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10.

Reuters: "U.S. Imposes Sanctions Against Iran Central Bank

Governor, Iraq-Based Bank"

(Source: Reuters, 15 May 2018.) [Excerpts.]

The United States on Tuesday imposed sanctions on Iran's central bank governor, Valiollah Seif, and Iraq-based Al-Bilad Islamic Bank for "moving millions of dollars" for Iran's elite Revolutionary Guard Corps, as Washington seeks to cut off funding for what it says is Iran's malign activities in the Middle East. ...

The United States classifies Lebanon's Shi'ite Muslim movement Hezbollah, which is backed by Iran, as a terrorist group. ...

The U.S. Treasury also blacklisted Ali Tarzali, assistant director of the international department of Iran's central bank, and the chairman of Al-Bilad Islamic Bank, Aras Habib.

The department said the sanctions against Seif and Tarzali would not immediately affect central bank transactions. It said, however, sanctions being reimposed under the nuclear deal would affect certain U.S. dollar transactions by the central bank starting on Aug. 7, 2018.

Last week, two days after U.S. President Donald Trump withdrew from the 2015 Iran nuclear deal, the U.S. Treasury imposed sanctions against six individuals and three companies it said were funneling millions of dollars to the IRGC-QF.

The IRGC is by far Iran's most powerful security entity and has control over large stakes in Iran's economy and huge influence in its political system. The Quds Force is an elite unit in charge of the IRGC' overseas operations.

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11.

The Washington Times: "Trump Administration Moves to Shift Small Arms Gun Export Approval from State Department to Commerce"

(Source: The Washington Times, 14 May 2018.) [Excerpts.]

The Trump administration took a major formal step Monday toward officially shifting authority from the State Department to the Commerce Department over the approval of U.S. small arms exports, including semiautomatic rifles and weapons ranging in size up to .50 caliber.

In a closed-door briefing for lawmakers, State and Commerce officials outlined specifics of the shift long sought by small arms manufacturers as a way to cut red tape and boost exports - but decried by pro-regulation Democrats who warn the policy change could dissolve barriers designed to keep U.S.-made firearms from criminals and terrorists overseas.

While Congress could still block the initiative - Monday's briefing on Capitol Hill sets in motion a public comment period that lasts for 45 days - administration officials are touting the policy as breakthrough for U.S. manufacturing and stress that key restrictions on exports to unsavory international buyers will remain in place. ...

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COMMENTARY

12. D.M. Edelman: "Trump Cancels Iran Deal: Can Your

Company Still Do Business?"

(Source: Export Compliance Matters, 14 May 2018.)

* Author: Doreen M. Edelman, Esq., Baker Donelson LLP, 202-508-

3460, dedelman@bakerdonelson.com.

On May 8, President Trump announced that the U.S. will withdraw from the Iran nuclear deal, formally known as the Joint Comprehensive Plan of Action (JCPOA), and reimpose the strict economic sanctions program that was in place prior to the landmark 2015 agreement. The U.S. Treasury Department's Office of Foreign Assets Control issued a Frequently Asked Questions document in coordination with the announcement to assist with the implementation of the Iran sanctions program. Here is the bottom line so far.

Following a wind-down period, all U.S. nuclear-related sanctions that were lifted to effectuate JCPOA sanctions relief will be reimposed. Certain sanctions are subject to a 90-day wind-down period that will be formally reimposed on August 6, and the rest are subject to a 180-day wind-down period ending on November 4. On November 5, General License H, which allows U.S.-owned or U.S.-controlled foreign companies to do business in Iran, will be gone. The most significant sanctions to be reimposed are "secondary sanctions," which place strict limits on foreign companies doing business with Iran.

As a result of the reimposition of secondary sanctions, foreign entities, even those not owned or controlled by U.S. parties, will have to decide whether they want to do business with Iran or the U.S. Specifically, foreign entities will not be able to do business in Iranian rials and do business with or through the U.S. banking system. Such businesses could also be added to the Specially Designated Nationals and Blocked Persons lists.

Other specific provisions that will be rolled back and directly affect U.S. entities concern the sale of airplanes and parts, Iranian carpets and foodstuffs, and certain financial transactions that were permitted under the Iranian Transactions and Sanctions Regulations (ITSR). These provisions are subject to the 90-day wind-down period. As an ongoing reminder, none of these changes affect the ITSR's general prohibition against U.S. persons doing business with Iran. This means the prohibitions on sales to Iran that existed before the JCPOA still exist. No U.S. parties can sell any products to Iran unless specifically authorized. This means no paperclips, coffee mugs, etc., can be sent to Iran unless the transaction is covered by a license. The President also reimposed sanctions on Iranian government trade in gold and precious metals, the purchase of U.S. dollar banknotes, and the direct and indirect sale of certain metals and software, as well as sanctions involving Iran's automotive, port, shipbuilding, petroleum, banking and energy sectors, and the issuance of Iranian sovereign debt.

U.S. and foreign entities must quickly evaluate all current and future business and investments in and with Iranian entities and determine if there are any exceptions to divesting of all Iranian business activities. Moreover, any facilitation of Iranian activities must also be considered. These changes are new, and there may be additional guidance provided for foreign entities to apply for additional exemptions or waivers. European Union (E.U.) leaders have already said they plan to press the U.S. government for potential carveouts to the sanctions for European companies. However, as of today, the Administration wants all global businesses to decide whether they will do business with the U.S. or do business with Iran. Regulatory compliance obligations may become even trickier if the E.U. implements a protected

harbor or blocking regulation for European companies doing business with Iran. It will be critical to follow the implementation of the Iranian sanctions program as well as the E.U.'s diplomatic efforts and response during the wind-down period over the course of the coming months.

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13. G. Husisian: "The Twelve Compliance Steps Every Multinational Corporation Should Undertake in Light of Recent Trump Administration Enforcement Activity" (Part I of IV)

(Source: Foley & Lardner LLP, 14 May 2018.)

* Gregory Husisian, Esq., ghusisian@foley.com, Foley & Lardner LLP, Washington DC.

[Editor's Note: due to space limitations, this article has been divided into four parts. We will post one part each day, from Tuesday, 15 May until Friday, 18 May 2018.]

Over the last month, regulators with the Trump administration sent a loud message to companies subject to U.S. jurisdiction: Enforcement of laws governing international activities is alive and well and the laws will continue to be enforced with vigor. Companies that are subject to U.S. jurisdiction - whether because they are located within the United States or otherwise subject to U.S. jurisdiction (such as through the use of U.S.-origin goods or the use of the U.S. financial system) - need to evaluate whether their compliance measures are sufficient to detect and halt potential violations of U.S. international regulations, including the Foreign Corrupt Practices Act (FCPA), U.S. export control regulations (the International Traffic in Arms Regulations (ITAR) and the Export Administration Regulations (EAR), the economic sanctions regulations maintained by the Office of Foreign Assets Control (OFAC), and the various anti-money laundering laws.

As recent enforcement activity under the Trump administration illustrates, enforcement of this suite of international regulatory laws is alive and well. In light of these developments, this Client Alert summarizes the most recent enforcement activity, as well as the steps that companies subject to U.S. jurisdiction can take to identify and mitigate the risk of costly enforcement actions under these regulatory regimes.

Recent Enforcement Activity Shows U.S. Government Willingness to Impose Record Penalties for Violations of International Regulations

Under the Obama administration, enforcement of the FCPA, export controls, economic sanctions, AML, and FCPA regulations was steady and strong. Although the numbers varied year by year - mostly due to timing issues related to when large matters were settled - it was not uncommon to see large enforcement settlement that surpassed the \$100 million level.

Any thought that the Trump administration might take a more lenient approach toward these international regulations has been laid to rest by the strong record of enforcement under the current administration, as underscored by two recent enforcement actions.

First, Panasonic agreed to pay \$280 million to resolve FCPA offenses for payments to consultants of its U.S. inflight entertainment unit in the Middle East and Asia, including the payment of \$143 million in disgorgement to the Securities and Exchange Commission. In both cases, the resolutions were related to activities of Panasonic's U.S.-based subsidiary, Panasonic Avionics Corporation. According to the U.S. government, senior management of Panasonic Avionics established a bribery scheme to pay a Middle Eastern government official more than \$900,000 for a "purported consulting position, which required little to no work," allowing Panasonic Avionics to help gain over \$700 million in business from a state-owned airline. The U.S. government further stated that Panasonic Avionics concealed the payment "through a third-party vendor that provided unrelated services" to Panasonic Avionics and then allegedly falsely recorded these (and other) payments in its books and records. Other payments related to Asian sales.

The Department of Justice (DOJ) gave Panasonic Avionics a 20 percent discount off the low end of the U.S. Sentencing Guidelines fine range because of the cooperation of the company and what the DOJ characterized as strong remediation efforts, including the severing of several senior executives who were either involved in or aware of the misconduct by Panasonic Avionics or Panasonic. Nonetheless, because the remediation efforts only recently had been instated, the deferred prosecution agreement provides for a two-year independent monitor, followed by an additional year of self-reporting.

Independently, the Department of Commerce's Bureau of Industry and Security (BIS) took the unusual step of suspending an export control settlement deal with Chinese telecom equipment maker ZTE Corporation, while at the same time revoking the export privileges of the company. ZTE Corporation was operating under a settlement of claims that it had violated U.S. export control and economic sanctions regulations by engaging in 251 transactions with persons in Iran or with the Iranian government. These transactions had last year resulted in the largest-ever export controls penalty - nearly \$1.2 billion, with \$300 million of it being suspended during a seven-year probationary period. As a result of the export ban, the ability of ZTE to export any goods or technical data from its 14 offices and six research centers in the United States will be virtually eliminated until March 13, 2025, thereby endangering the ability of ZTE to take a leading role in the rollout of next-generation 5G wireless technology.

These settlement actions illustrate the ability of U.S. regulators to discover and punish violations of U.S. international regulations, as well as the willingness of the Trump administration to impose groundbreaking penalties. In light of the aggressive enforcement mentality of the U.S. government, this Client Alert presents a series of steps that companies subject to U.S. jurisdiction can take to help identify and manage their international

regulatory risk. Careful consideration of each step will take the company from identifying the risks, through examining any deficiencies in dealing with those risks, to the goal of compliance as informed by appropriate procedures, internal controls, and training. For any company that has not gone through such an exercise in the last few years, systematically working through the 12 steps is likely to lead to a significant payoff for ameliorating the organization's risk profile through an effective compliance system.

A Twelve-Step Program for International Compliance

As illustrated by the record export controls penalty against ZTE (almost \$1.2 billion, followed by a denial of export privileges) and the Panasonic FCPA settlements, the risk of severe enforcement actions under the Trump administration for violations of international regulations continues to be high. Yet many multinational companies find themselves in a quandary regarding how best to implement their international regulatory risk management. They may well know they face heightened risk but are not clear regarding the best way to proceed. This section of the Client Alert summarizes the typical steps that most multinational companies should consider when evaluating their international regulatory risk management procedures and internal controls. Through careful implementation of these measures, most multinational organizations should be able to implement the kinds of compliance that U.S. regulators would consider to be industry best practices.

Step 1: Secure Buy-In at the Top

Many companies looking to implement an international regulatory compliance program start by drafting a written compliance policy. But long before it comes time to draft the policy, a well-thought-out compliance strategy will look to put in place the underpinnings of the compliance program. Chief among these is the need for consistent management support for compliance initiatives.

Although the phrase "tone at the top" encapsulates management support, the concept requires more than just support from the CEO and other top management officials. When properly executed, the idea of tone at the top is a pyramid, with the concept of "doing the right thing" and respect for compliance flowing down from the CEO to personnel at all levels. Senior management ensures it is known that compliance has full support at the top, and that compliance has the resources to function properly, while also trying to ensure that respect for compliance with legal and company mandates flows through the company.

Management support is especially important for companies with international operations. The connection between the sales and operational activities of international subsidiaries, on the one hand, and regulatory risk management and adhering to the requirements of U.S. law, on the other, can appear tenuous when viewed by far-flung actors. The reality, however, is these far-off operations often represent the highest regulatory risk. This may mean that the organization must pay special attention to these foreign subsidiaries

so it can reinforce the compliance message and its importance to the overall organization.

In establishing the tone at the top, senior management must understand the importance of a consistent and reinforced message. Too often, the role of senior management seems confined to issuing "the compliance letter" (i.e., a letter from the CEO stating that compliance is important). Thereafter, the topic is put on the back burner and left to the legal or compliance department to implement, often with inadequate resources to back up the compliance mission.

While there is nothing wrong with issuing such a letter, the compliance message should be reinforced so it becomes part of the internal DNA of the corporation. The importance of compliance to the company cannot be communicated by a one-time effort; rather, it should be a part of the day-to-day management of the organization.

With that goal in mind, senior management should take advantage of "non-training" training opportunities, such as integrating mentions of compliance missteps or accomplishments into quarterly calls, including compliance topics in sales meetings, and mentioning the topic frequently in company newsletters. Further, when teachable moments occur, such as compliance missteps by competitors, it is a good idea to bring this to the attention of relevant personnel, such as through a mass email from a senior manager or the general counsel's office.

Senior management must set a strong example. It should be common knowledge that compliance rules apply across the entire organization, including for senior personnel; that the company promptly follows up on credible red flags; and that the company is willing to walk away from business that requires stepping too close to the risk threshold. People throughout the organization, whether in the United States or elsewhere, should realize there are consequences for compliance missteps. Through these means, senior management can communicate its respect for compliance throughout the organization.

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14. O. Coulon, G. Kreijen & B. Gevers: "While EU Countries Reaffirm their Commitment to the JCPOA, EU Companies Brace for Impact" (Source: World Trade Controls, 15 May 2018.)

* Authors: Olivier Coulon, Esq., <u>Olivier.Coulon@loyensloeff.com</u>; Gerard Kreijen, Esq., <u>Gerard.Kreijen@loyensloeff.com</u>; and Bert Gevers, Esq., <u>bert.gevers@loyensloeff.com</u>. All of Loyens & Loeff, Brussels, Amsterdam, and Brussels, respectively.

Although expected, President Trump's decision to pull the US out of the JCPOA has triggered swift and concerned reactions from Europe. Despite the EU's reaffirmed commitment to the JCPOA, it is yet unclear whether - and how - the Agreement will survive.

In a joint statement released on 8 May, France, the UK, and Germany expressed regret and concern about President Trump's decision, and urged "all sides to remain committed to [the JCPOA] full implementation." They called on the US "to ensure that the structures of the Joint Comprehensive Plan of Action (JCPOA) can remain intact, and to avoid taking action which obstructs its full implementation by all other parties to the deal."

Impact in the EU

Since the lifting of the US secondary sanctions following Implementation Day, EU companies have invested significantly in Iran. Close to €11 billion of goods were exported to Iran in 2017 - a 66% increase compared to 2015 -, and many contracts and deals were signed, notably by French and German entities.

The transport sector made a giant leap between 2015 and 2017. Iran became Renault's 8th market with more than 160 000 cars sold in 2017, while PSA's sales in Iran grew to 443 000 units. IranAir has also placed an order for €17.5 billion with Airbus, while Siemens was due to deliver locomotives.

The re-imposition of the sanctions is expected - and indeed seems designed - to have a deterring impact on European companies, as maintaining business relationships with Iran - especially with SDN (re-)listed persons and entities - may well lead to being targeted by secondary sanctions.

Re-Imposition of the Secondary Sanctions

Secondary sanctions are designed to deter non-US companies from doing business with sanctioned persons, by isolating them from the US financial system and making them unpalatable as business partners for US companies.

The secondary sanctions, for which waivers were lifted on 8 May, will be progressively re-instated, as President Trump's decision provides for two wind-down periods:

- A 90-day period, ending on 6 August 2018, encompassing sanctions which are not covered by the 180-day period. These notably include transactions in the automotive sector, precious metals and raw materials.
- A 180-day period, ending on 4 November 2018, relating inter alia to sanctions in the financial and insurance industries, but particularly in the energy and shipping sectors.

It should however be noted that some secondary sanctions remained in place since JCPOA's Implementation in 2016. These sanctions prohibit for example EU companies to engage in significant transactions on behalf of, or for the benefit of any SDN or any company 50% by such person. They also prohibit

transacting with the Iran Revolutionary Guard Corps (IRGC) or any of its officials, agents or affiliates. The past few years have taught us that this prohibition can be challenging as the IRGC is sometimes heavily involved in certain industry sectors.

What Can the EU Do About This?

The EU countries' commitment to keeping the JCPOA alive is likely not to be enough, considering the significant chilling effect of the US secondary sanctions. Measures will have to be taken to give the EU companies a certain level of comfort and certainty in their relationship with Iran - if possible.

Amongst the available measures, the European Union could adopt a blocking statute, as it has already done in the past through the adoption of Council Regulation (EC) n°2271/96 of 22 November 1996 protecting against the effects of the extra-territorial application of legislation adopted by a third country, and actions based thereon or resulting therefrom, to address both the Helms-Burton and d'Amato-Kennedy provisions. It may be questionable, however, whether adopting new blocking regulations would be an effective tool, as EU companies will still be fully exposed to the enforcement of secondary sanctions in the US.

France and Italy have also reportedly been working on providing all-euro denominated transaction systems, allowing one to by-pass the US financial system.

The EU may likewise try to negotiate with the US specific exemptions covering targeted sectors (such as the energy or automotive industry), allowing EU companies to maintain business relationships with Iran.

Yet, these instruments take time to design and implement. Considering the 90-day deadline, one can question whether any sort of solution will be reached before 6 August. This circumstance is only likely to reinforce the deterring effect of the revamped US sanctions.

One option for the EU to preserve its interests may be to rely on the US desire to reach a stricter and more global deal, covering not only the nuclear aspects, but also other topics such as the development of ballistic missiles. The negotiation of such a new agreement, which would necessarily require the EU as a signing party and which, reportedly was within reach before President Trump decided to walk out, may now well constitute the EU's best bargaining tool for avoiding the imposition of secondary sanctions or obtaining an exemption those sanctions.

It remains to be seen, however, whether it would be realistic for the EU to pursue such an option. Various US sources have made it quite clear that the re-institution of US sanctions is also aimed at 'encouraging' non-US companies to stay out of Iran and to get out if they are already there. It is difficult to see how the US could reconcile this with providing EU companies leeway to do business with Iran. The question for the US, it seems, is

whether the economic isolation of Iran outweighs hammering out a more encompassing and stricter sanctions regime.

Meanwhile 'non-US' companies in active in Iran trade should start their assessment whether their activities will become subject to the newly reinstated secondary sanctions. If this is the case, they should carefully evaluate their risks and liabilities and where necessary start with the wind down process.

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15. Gary Stanley's EC Tip of the Day

(Source: Defense and Export-Import Update, 14 May 2018. Available by subscription from gstanley@gistrade.com.)

* Author: Gary Stanley, Esq., Global Legal Services, PC, (202) 352-3059, gstanley@glstrade.com.

ITAR § 124.1(A) provides that its requirements apply whether or not technical data is to be disclosed or used in the performance of the defense services described in ITAR § 120.9(a) (e.g., all the information relied upon by the U.S. person in performing the defense service is in the public domain or is otherwise exempt from ITAR licensing requirements pursuant to ITAR §125.4.

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EX/IM TRAINING EVENTS & CONFERENCES

16. ECS Presents "ITAR/EAR Boot Camp (Seminar Level I)" on 10-11 Jul in Long Beach, CA

(Source: S. Palmer, spalmer@exportcompliancesolutions.com.)

- * What: ITAR/EAR Boot Camp (Seminar Level I), Long Beach, CA
- * When: July 10-11, 2018
- * Where: <u>Hilton Long Beach</u>
- * Sponsor: Export Compliance Solutions (ECS)
- * ECS Speaker Panel: Suzanne Palmer, Mal Zerden
- * Register: Here or by calling 866-238-4018 or e-mail

spalmer@exportcompliancesolutions.com.

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EDITOR'S NOTES

17. Bartlett's Unfamiliar Quotations

(Source: Editor)

- * Clifton Paul "Kip" Fadiman (15 May 1904 20 Jun 1999; was an American intellectual, author, editor, radio and television personality. He began his work with the radio, and switched to television later in his career.)
- "For most men life is a search for the proper manila envelope in which to get themselves filed."
- * **L. Frank Baum** (Lyman Frank Baum; 15 May 15, 1856 6 May 1919; was an American author chiefly famous for his children's books, particularly The Wonderful Wizard of Oz and its sequels. He wrote a total of 14 novels in the Oz series, plus 41 other novels, 83 short stories, over 200 poems, and at least 42 scripts.

- "I can't give you a brain, but I can give you a diploma."

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18. Are Your Copies of Regulations Up to Date? (Source: Editor)

The official versions of the following regulations are published annually in the U.S. Code of Federal Regulations (C.F.R.), but are updated as amended in the Federal Register. The latest amendments to applicable regulations are listed below.

- * <u>ATF ARMS IMPORT REGULATIONS</u>: 27 CFR Part 447-Importation of Arms, Ammunition, and Implements of War
- Last Amendment: 15 Jan 2016: <u>81 FR 2657-2723</u>: Machineguns, Destructive Devices and Certain Other Firearms; Background Checks for Responsible Persons of a Trust or Legal Entity With Respect To Making or Transferring a Firearm.
- * CUSTOMS REGULATIONS: 19 CFR, Ch. 1, Pts. 0-199
- Last Amendment: 12 Apr 2018: <u>83 FR 15736-15740</u>: CBP Decision No. 18-04; Definition of Importer Security Filing Importer (ISF Importer)
- * DOD NATIONAL INDUSTRIAL SECURITY PROGRAM OPERATING MANUAL (NISPOM): DoD 5220.22-M
- Last Amendment: 18 May 2016: <u>Change 2</u>: Implement an insider threat program; reporting requirements for Cleared Defense Contractors; alignment

with Federal standards for classified information systems; incorporated and cancelled Supp. 1 to the NISPOM (Summary here.)

- * EXPORT ADMINISTRATION REGULATIONS (EAR): 15 CFR Subtit. B, Ch. VII, Pts. 730-774
- Last Amendment: 5 Apr 2018: <u>83 FR 14580-14583</u>: Reclassification of Targets for the Production of Tritium and Related Development and Production Technology Initially Classified Under the 0Y521 Series [Imposes License Requirements on Transfers of Specified Target Assemblies and Components for the Production of Tritium, and Related "Development" and "Production" Technology.]
- * FOREIGN ASSETS CONTROL REGULATIONS (OFAC FACR): 31 CFR, Parts 500-599, Embargoes, Sanctions, Executive Orders
- Last Amendment: 19 Mar 2018: <u>83 FR 11876-11881</u>: Inflation Adjustment of Civil Monetary Penalties
- * FOREIGN TRADE REGULATIONS (FTR): 15 CFR Part 30
- Last Amendment: 24 Apr 2018: <u>3 FR 17749-17751</u>: Foreign Trade Regulations (FTR): Clarification on the Collection and Confidentiality of Kimberley Process Certificates
 - HTS codes that are not valid for AES are available here.
- The latest edition (30 Apr 2018) of *Bartlett's Annotated FTR* ("BAFTR"), by James E. Bartlett III, is available for downloading in Word format. The BAFTR contains all FTR amendments, FTR Letters and Notices, a large Index, and approximately 250 footnotes containing case annotations, practice tips, Census/AES guidance, and explanations of the numerous errors contained in the official text. Subscribers receive revised copies in Microsoft Word every time the FTR is amended. The BAFTR is available by annual subscription from the Full Circle Compliance website. BITAR subscribers are entitled to a 25% discount on subscriptions to the BAFTR. Government employees (including military) and employees of universities are eligible for a 50% discount on both publications at www.FullCircleCompiance.eu.
- * HARMONIZED TARIFF SCHEDULE OF THE UNITED STATES (HTS, HTSA or HTSUSA), 1 Jan 2018: 19 USC 1202 Annex. ("HTS" and "HTSA" are often seen as abbreviations for the Harmonized Tariff Schedule of the United States Annotated, shortened versions of "HTSUSA".)
- Last Amendment: 4 May 2018: <u>Harmonized System Update 1807</u>, containing 289 ABI records and 60 harmonized tariff records.
 - HTS codes for AES are available here.
 - HTS codes that are not valid for AES are available here.
- * INTERNATIONAL TRAFFIC IN ARMS REGULATIONS (ITAR): 22 C.F.R. Ch. I, Subch. M, Pts. 120-130.
- Last Amendment: 14 Feb 2018: <u>83 FR 6457-6458</u>: Amendment to the International Traffic in Arms Regulations: Addition of South Sudan [Amends ITAR Part 126.]
- The only available fully updated copy (latest edition: 25 Apr 2018) of the ITAR with all amendments is contained in *Bartlett's Annotated ITAR* ("BITAR"), by James E. Bartlett III. The BITAR contains all ITAR amendments to date, plus a large Index, over 800 footnotes containing amendment histories,

case annotations, practice tips, DDTC guidance, and explanations of errors in the official ITAR text. Subscribers receive updated copies of the BITAR in Word by email, usually revised within 24 hours after every ITAR amendment. The BITAR is available by annual subscription from the Full Circle Compliance website. BAFTR subscribers receive a 25% discount on subscriptions to the BITAR, please contact us to receive your discount code.

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19. Weekly Highlights of the Daily Bugle Top Stories (Source: Editor)

Review last week's top Ex/Im stories in "Weekly Highlights of the Daily Bugle Top Stories" published <u>here</u>.

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EDITORIAL POLICY

- * The Ex/Im Daily Update is a publication of FCC Advisory B.V., compiled by: Editor, James E. Bartlett III; Assistant Editors, Alexander P. Bosch and Vincent J.A. Goossen; and Events & Jobs Editor, John Bartlett. The Ex/Im Daily Update is emailed every business day to approximately 8,000 readers of changes to defense and high-tech trade laws and regulations. We check the following sources daily: Federal Register, Congressional Record, Commerce/AES, Commerce/BIS, DHS/CBP, DOE/NRC, DOJ/ATF, DoD/DSS, DoD/DTSA, FAR/DFARS, State/DDTC, Treasury/OFAC, White House, and similar websites of Australia, Canada, U.K., and other countries and international organizations. Due to space limitations, we do not post Arms Sales notifications, Denied Party listings, or Customs AD/CVD items.
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FCC Advisory B.V., Landgoed Groenhoven, Dorpsstraat 6, Bruchem, 5314
AE Netherlands

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Sent by jebartlett@fullcirclecompliance.eu

Message

From: Paul, Joshua M [PaulJM@state.gov]

Sent: 5/9/2019 9:40:13 PM

To: Cooper, R. Clarke [CooperRC@state.gov]

CC: Windecker, Melissa A [WindeckerMA@state.gov]; Brown, Stanley L [BrownSL@state.gov]

Subject: Follow Up from Fite

Attachments: 02-22-19 Menendez Letter on Hold on CAT I-III Transfer.pdf

FYSA, we just spoke, he was happy; he mentioned that if he hadn't had his counterparts-from-across-the-aisle in the room he would have wanted to take on a few more substantive and thorny issues, particularly the status of SEN Menendez' requests in his letter to us on 3D printing (attached), but that he understood that wasn't the purpose, and looks forward to having those conversations – whether at your level, or with others in the Bureau – in the near future.

Josh

Josh Paul

Director, Congressional & Public Affairs Bureau of Political-Military Affairs (PM/CPA) U.S. Department of State

⊠ e-mail: PaulJM@State.Gov | th Web: www.state.gov/t/pm/

http://twitter.com/StateDeptPM

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JEFF MERKLEY, OREGON
CORY A. SOOVER, NEW JERSEY

United States Senate

COMMITTEE ON FOREIGN RELATIONS
WASHINGTON, DC 20510-6225

February 22, 2019

The Honorable Mike Pompeo Secretary of State U.S. Department of State 2201 C Street, N.W. Washington, D.C. 20520

Dear Secretary Pompeo:

On February 4, 2019, I received a congressional notification from the Department for a proposal to transfer responsibility for the export control of firearms and ammunition from the United States Munitions list (USML) to the Commerce Control List (CCL). I write to inform you that I am placing a hold on the congressional notification, pursuant to the authority of Section 38(f) of the Arms Export Control Act (AECA).

I am deeply concerned about this proposed transfer. As you no doubt are aware, firearms and ammunition – especially those derived from military models and widely used by military and security services – are uniquely dangerous. They are easily modified, diverted, and proliferated, and are the primary means of injury, death, and destruction in civil and military conflicts throughout the world. As such, they should be subject to more, not less, rigorous export controls and oversight.

Combat rifles, including those commonly known as "sniper rifles," should not be removed from the USML, nor should rifles of any type that are U.S. military-standard 5.56 (and especially .50 caliber). Semi-automatic firearms should also not be removed, and neither should related equipment, ammunition, or associated manufacturing equipment, technology, or technical data.

Consequently, my hold will remain in place until such time as the issues identified below are sufficiently addressed.

1) Removal of Firearms Exports from Congressional Information and Review
The AECA enables congressional review of exports of lethal weapons to ensure that they comport with U.S. foreign policy interests. Congress took action in 2002 to ensure that the sale and export of these weapons would receive stringent oversight, including by amending the AECA to set a lower reporting threshold (from \$14 million to \$1 million) specifically for firearms on the USML. Moving such firearms from the USML to the CCL would directly

contradict congressional intent and effectively eliminate congressional oversight and potential disapproval of exports of these weapons. Congressional oversight must be retained.

2) Proliferation of 3D Gun Printing Technical Information

There is a serious risk that this transfer will open the floodgates of information for the 3D printing of nearly-undetectable firearms and components by foreign persons and terrorists that intend to harm U.S. citizens and interests. The Department of Commerce claims that it cannot, by its own regulations, prevent the publication, including on the Internet for global consumption, of technical information and blueprint files that would enable this 3D production, if such information has once been published, even illegally. This is outrageous and simply unacceptable given the dangers it poses to U.S. citizens and interests.

Moreover, it may also be at variance with recent law. Section 1758 of the Export Control Reform Act of 2018 authorizes the Secretary of Commerce to control "emerging and foundational technologies" that (A) are essential to the national security of the United States; and (B) are not critical technologies described in clauses (i) through (v) of section 721(a)(6)(A) of the Defense Production Act of 1950. 3D printing has been identified by this Administration as an emerging technology of concern, and the Department of Commerce itself used 3D printing as an example of "emerging technology" in its November 19, 2018 Federal Register notice seeking public comment on what constitutes emerging technologies pursuant to this new statutory charge. Then-Secretary of Defense Mattis twice mentioned the challenges of 3D printing in congressional testimony, and Director of National Intelligence Coats, in his 2018 Worldwide Threat Assessment of the U.S. Intelligence Community, stated that, "[a]dvances in manufacturing, particularly the development of 3D printing, almost certainly will become even more accessible to a variety of state and non-state actors and be used in ways contrary to our interests."

It would seem axiomatic that the capability to 3D-print lethal weaponry that cannot easily or reliably be detected by metal detectors at airports, schools, governmental or other facilities (including the U.S. Capitol and the Department of State) would qualify as an emerging technology in need of regulatory control. Yet, the Commerce Department has told my staff that the interagency process to identify emerging and foundational technologies to be controlled has not been completed, and is unlikely to be completed for months. By proceeding with the transfer of firearms, including 3D printing technical information, to Commerce, the Administration is acting recklessly and endangering innocent lives. It should go without saying that we collectively need to understand the threat and have a plan to address this issue before making the regulatory change.

Moreover, the Department of Commerce would seem to have adequate additional regulatory authority to control 3D gun printing information, at least temporarily. Commerce can control any item for foreign policy reasons under the miscellaneous category of 0Y521, according to a final rule issued by Commerce in 2012. Preventing foreign terrorists and thugs from acquiring

the means to print undetectable guns to use against U.S. citizens is a sufficient foreign policy justification to control this technology from public release.

Ultimately, the specific provision of the Export Administration Regulations is cited as preventing Commerce from controlling the publication of 3D Printed guns in the longer term needs to be rewritten to permit this control. Until that occurs, or until Commerce determines that such technical information can and will be controlled, this technical information cannot and should not be transferred from USML to the CCL.

I look forward to your prompt response to my concerns.

Sincerely,

Robert Mehendez

Ranking Member

CC: The Honorable Wilbur Ross, U.S. Secretary of Commerce

Message

From: Kovar, Jeffrey D [KovarJD@state.gov]

Sent: 5/10/2019 3:04:30 PM

To: Minarich, Christine M [MinarichCM@state.gov]

Subject: FW: Follow Up from Fite

From: Paul, Joshua M <PaulJM@state.gov> Sent: Friday, May 10, 2019 7:37 AM

To: Cooper, R. Clarke < CooperRC@state.gov>

Cc: Windecker, Melissa A <WindeckerMA@state.gov>; Brown, Stanley L <BrownSL@state.gov>; Miller, Michael F

<Millermf@state.gov>; Heidema, Sarah J <HeidemaSJ@state.gov>; Kovar, Jeffrey D <KovarJD@state.gov>

Subject: RE: Follow Up from Fite

From: Cooper, R. Clarke < CooperRC@state.gov>

Sent: Thursday, May 09, 2019 6:17 PM **To:** Paul, Joshua M < PaulJM@state.gov >

Cc: Windecker, Melissa A < WindeckerMA@state.gov >; Brown, Stanley L < BrownSL@state.gov >

Subject: RE: Follow Up from Fite

No surprises here Josh, and appreciate David recognizing the scope of this initial meeting with our primary SFRC and HFAC contacts.

Regards,

R. Clarke Cooper Assistant Secretary of State Political Military Affairs Bureau

CooperRC@state.gov

ENGAGE. ENHANCE. ENABLE.

Official - SBU UNCLASSIFIED

From: Paul, Joshua M < PaulJM@state.gov > Sent: Thursday, May 9, 2019 5:40 PM

To: Cooper, R. Clarke < CooperRC@state.gov>

Case 2:20-cv-00111-RAJ Document 106-13 Filed 09/23/20 Page 167 of 378

Cc: Windecker, Melissa A < WindeckerMA@state.gov >; Brown, Stanley L < BrownSL@state.gov >

Subject: Follow Up from Fite

FYSA, we just spoke, he was happy; he mentioned that if he hadn't had his counterparts-from-across-the-aisle in the room he would have wanted to take on a few more substantive and thorny issues, particularly the status of SEN Menendez' requests in his letter to us on 3D printing (attached), but that he understood that wasn't the purpose, and looks forward to having those conversations – whether at your level, or with others in the Bureau – in the near future.

Josh

Josh Paul

Director, Congressional & Public Affairs Bureau of Political-Military Affairs (PM/CPA) U.S. Department of State

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Message

From: Koelling, Richard W [KoellingRW@state.gov]

Sent: 5/14/2019 3:10:38 PM

To: PM-DTCP-RAA [PM-DTCP-RAA@state.gov]

Subject: FW: CPA Media Monitoring: Forum on the Arms Trade: Letter to Congress - Firearms Exports (May 14, 2019)

A summary of the letter to Congress previously sent.

Rick

Richard W. Koelling, Jr.
Deputy Director (Acting)
Office of Defense Trade Controls Policy
Department of State
202-663-2828

From: Marquis, Matthew R < Marquis MR@state.gov>

Sent: Tuesday, May 14, 2019 11:04 AM

To: PM-DTCP-Tasking-DL < PM-DTCP-Tasking-DL@state.gov>; PM-DTCL < PM-DTCL@state.gov>; PM/SA Security

Assistance Office < PMSASecurityAssistanceOffice@state.gov>

Cc: PM-CPA <PM-CPA@state.gov>; PM/SA Security Assistance Office <PMSASecurityAssistanceOffice@state.gov>;

Miller, Michael F < Millermf@state.gov>; O'Keefe, Kevin P < OKeefeKP@state.gov>; Cressey, Laura E

<CresseyLE@state.gov>; Christensen, Brent T <ChristensenBT@state.gov>; Jost, Aaron W <JostAW@state.gov>

Subject: CPA Media Monitoring: Forum on the Arms Trade: Letter to Congress - Firearms Exports (May 14, 2019)



Letter to Congress - Firearms Exports (May 14, 2019) By Forum on the Arms Trade 14 May 2019

Dear Member of Congress:

The undersigned organizations write in strenuous opposition to the Administration's proposal to significantly weaken regulation and oversight of firearms exports. The transfer of export controls of semi-automatic pistols, assault-style firearms, sniper rifles, and ammunition from the United States Munitions List under the authority of the Department of State to the less-stringent controls of the Department of Commerce[1] will thwart congressional oversight and create new and unacceptable risks of exacerbating gun violence, human rights abuses, and armed conflict.

The Administration's proposal guts Congress' authority to provide oversight of firearms exports. Currently, Congress is notified of firearms sales authorized by the State Department valued at \$1 million or more. No such notification requirements will exist if these weapons are transferred to Commerce control. In recent years, Congressional notification has been an important backstop, helping forestall firearms transfers to repressive forces, such as those in Turkey and the Philippines.[2]

The proposal would also transfer control of the technical information and blueprints for potentially undetectable 3D-printed guns from State to Commerce, a move that could facilitate printing of 3D guns worldwide, make

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these weapons readily available to terrorist groups and other criminal elements, and endanger American embassies, military bases, and passenger aircraft at home and abroad.[3]

Although proponents of the proposed changes argue that small arms are "less dangerous" because many can be bought in U.S. retail outlets, the fact is that armies are built from these firearms. Small arms are the weapons of mass destruction in countries and regions such as Congo, Burma, Mexico, and Central America. AR- and AK-type rifles and their ammunition that would be transferred to Commerce control are weapons of choice for criminal organizations in Mexico and other Central American countries, contributing to the humanitarian catastrophe that drives many migrants north as guns flow south.[4]

Under the proposed changes, fully automatic firearms would properly remain under State Department control, but semi-automatic weapons would move to the Commerce Department's control. Practically, however, the difference between these types of weapons is meaningless. For example, soldiers in Cameroon last summer – in two separate incidents captured on video – used semi-automatic rifles to execute several men, two women, and two small children.[5] In Mexico, local police in Guerrero State responsible for the forced disappearance of 43 students in 2014 were armed with semi-automatic rifles.[6] Many sniper rifles and semiautomatic firearms that would be moved to the Commerce Department's control are currently in active use by the U.S. military, and many semi-automatic firearms can also easily be converted to fully automatic weapons, further illustrating the false dichotomy of arguments in support of this change.

The proposal will also increase the risk of exports to unauthorized end users and conflict zones as the Commerce Department, charged with promoting sales, will gather less information about those engaged in the arms trade and rely on post-shipment monitoring, rather than pre-license checks. Overall, Congress already has a robust framework for arms transfers, embedding important human rights and other critical provisions in two central statutes: the Arms Export Control Act and the Foreign Assistance Act. The provisions of these laws, generally speaking, apply to defense articles listed on the U.S. Munitions List. Removing weapons from this list exempts them from related statutory constraints.[7]

Ultimately, the weapons and ammunition that currently are controlled under U.S. Munition List Categories I-III belong there and should stay there. The best way to move forward is to prohibit transfer of these weapons out of the U.S. Munitions List and maintain congressional oversight, as is currently proposed in H.R. 1134 and S. 459.[8] A prohibition on transfers out of the U.S. Munitions List could be included in other legislation, such as the National Defense Authorization Act. We urge you to support these measures.

Sincerely,

Alianza Americas Alliance for Gun Responsibility Alliance of Baptists American Federation of Teachers American Friends Service Committee American Medical Student Association Americans for Democratic Action Amnesty International-USA Arizonans for Gun Safety Arms Control Association Baptist Peace Fellowship of North America **BAYAN USA** Blue Future Brady The Campaign to Keep Guns off Campus Center for American Progress

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Center for Civilians in Conflict (CIVIC)

Center for International Policy

Church of the Brethren Office of Peacebuilding and Policy

Coalition Against Gun Violence

Coalition for Peace Action

Coalition to Stop Gun Violence

Colorado Ceasefire Legislative Action

Committee in Solidarity with the People of El Salvador (CISPES)

Congregation of Our Lady of Charity of the Good Shepherd, US Provinces

CT Against Gun Violence

Delaware Coalition Against Gun Violence Educational Fund

Desert Southwest Conference UMC, Board of Church and Society

Episcopal Peace Fellowship

Fellowship of Reconciliation

Franciscan Action Network

Friends Committee on National Legislation

Friendship Office of the Americas

Georgians for Gun Safety

Giffords Law Center to Prevent Gun Violence

Global Exchange

Global Justice Institute, Metropolitan Community Churches

Granite State Progress

Grey Nuns of the Sacred Heart

Gun Violence Prevention Center of Utah

Hoosiers Concerned About Gun Violence

Humanity & Inclusion

Interfaith Council for Peace and Justice

International Coalition for Human Rights in the Philippines-United States

Jewish Center for Justice

Joint Action Committee

Jr Newtown Action Alliance

Just Foreign Policy

Latin America Working Group

Leadership Conference of Women Religious

Maryknoll Office for Global Concerns

Million Hoodies Movement for Justice

MomsRising

Monmouth Center for World Religions and Ethical Thought

National Advocacy Center of the Sisters of the Good Shepherd

National Coalition Against Domestic Violence

National Council of Churches

National Lawyers Guild, International Committee

Network in Solidarity with the People of Guatemala

New Mexicans to Prevent Gun Violence

Newtown Action Alliance

Nicaragua Center for Community Action

North Carolina Council of Churches

Oakland Catholic Worker

One Pulse for America

Orange Ribbons for Gun Safety

Pax Christi USA

Pax Christi International

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Pax Christi Metro Washington, DC and Baltimore

Pax Christi Pacific Northwest

Philippines-U.S. Solidarity Organization - Southern California

Presbyterian Church (USA)

San Diegans for Gun Violence Prevention

School of Americas Watch

School of Americas Watch - East Bay

Sister Parish, Inc.

Sisters of Charity of the Blessed Virgin Mary

Sisters of St. Francis of the Neumann Communities

States United to Prevent Gun Violence

Stop Handgun Violence

Survivors Empowered Action Fund

Survivors Lead

Task Force on the Americas

The United Methodist Church - General Board of Church and Society

United Nations Association of the National Capital Area

Violence Policy Center

Vision Quilt

War Resisters League

Washington Office on Latin America

WAVE Educational Fund

We the People for Sensible Gun Laws

Win Without War

Women Against Gun Violence

Women's Action for New Directions

Woman's National Democratic Club

Non-US groups:

Action on Armed Violence

Center for Ecumenical Studies

Colombian Campaign To Ban LandMines

Corruption Watch UK

Human Security Network in Latin American and the Caribbean (SEHLAC)

Igarapé Institute

Public Policy Association (APP)

Link: https://www.forumarmstrade.org/2019firearmsletter.html

Matthew Marquis

Office of Congressional & Public Affairs Bureau of Political-Military Affairs (PM/CPA) U.S. Department of State

Phone: 202.647.6968

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Message

From: Marquis, Matthew R [MarquisMR@state.gov]

Sent: 5/14/2019 4:43:50 PM

To: PM-DTCP-Tasking-DL [PM-DTCP-Tasking-DL@state.gov]; Legal-PM-DL [Legal-PM-DL@state.gov]

CC: PM-CPA [PM-CPA@state.gov]; PM-DAS's [PM-DASs@state.gov]

Subject: CPA Media Monitoring: The Crime Report: New Rules for Gun Exports Smooth Path for 3D Weapons Overseas,

Groups Warn



New Rules for Gun Exports Smooth Path for 3D Weapons Overseas, Groups Warn By The Crime Report 14 May 2019

The Trump administration's proposals to ease restrictions on firearms exports will create "new and unacceptable risks of exacerbating gun violence, human rights abuses, and armed conflict," a coalition of 100 organizations warned in an open letter to Congress Tuesday.

Under a proposed rule change sent to Congress last month, firearms manufacturers would no longer need to register for a license from the State Department to export semi-automatic weapons and other small arms. Instead, they would only have to apply to the Department of Commerce, where the process is simpler and less costly.

The proposed new rules would also make it easier to sell technical information and blueprints for 3D-printed guns, which are also currently under State Department license, making such weapons "readily available to terrorist groups and other criminal elements, and endanger American embassies, military bases, and passenger aircraft at home and abroad," the letter said.

"Although proponents of the proposed changes argue that small arms are less dangerous because many can be bought in U.S. retail outlets, the fact is that armies are built from these firearms," the organizations declared, noting that the proliferation of small arms has fanned conflicts in regions like Central America, as well as Congo, Burma and Mexico.

The letter was signed by a wide network of religious groups, national and state gun violence prevention organizations in 14 states, as well as human rights groups.

The groups said Congressional oversight over sales of all types of weapons and ammunition was in the interests of all Americans.

"Congressional notification has been an important backstop, helping forestall firearms transfers to repressive forces, such as those in Turkey and the Philippines," the letter said, noting that Congress is informed of all weapons sales valued at \$1 million or more authorized by the State Department.

"No such notification requirements will exist if these weapons are transferred to Commerce control."

The proposed changes will go into effect this month unless Congress blocks them.

Link: https://thecrimereport.org/2019/05/14/new-rules-for-gun-exports-smooth-path-for-3d-weapons-overseas-groups-warn/

WASHSTATEC002661

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Matthew Marquis

Office of Congressional & Public Affairs Bureau of Political-Military Affairs (PM/CPA) U.S. Department of State

Phone: 202.647.6968

e-mail: MarquisMR@state.gov | Web: www.state.gov/t/pm / |Twitter: @StateDeptPM

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Message

From: Koelling, Richard W [KoellingRW@state.gov]

Sent: 5/15/2019 8:01:40 PM

To: PM-DTCP-RAA [PM-DTCP-RAA@state.gov]
Subject: FW: CPA MEDIA MONITORING: 14 May 2019

M2 Offering for today.

Rick

Richard W. Koelling, Jr.
Deputy Director (Acting)
Office of Defense Trade Controls Policy
Department of State
202-663-2828

From: Marquis, Matthew R < Marquis MR@state.gov>

Sent: Tuesday, May 14, 2019 4:45 PM

To: Windecker, Melissa A < Windecker MA@state.gov>; PM-Strategy < PM-Strategy@state.gov>

Cc: PM-CPA <PM-CPA@state.gov>; Brown, Stanley L <BrownSL@state.gov>; O'Keefe, Kevin P <OKeefeKP@state.gov>; Miller, Michael F <Millermf@state.gov>; Mak, Daniella <MakD@state.gov>; Dudding, Maria <DuddingM@state.gov>;

Nute, Kathryn M <NuteKM3@state.gov>; McVerry, James <James.Mcverry.ctr@dla.mil>; Phalen, Susan A

<PhalenSA@state.gov>; chandrawhalenlaw@gmail.com; PM-Directors <PM-Directors@state.gov>; PM-Deputy-Directors

<PM-Deputy-Directors@state.gov>; Cooper, R. Clarke <CooperRC@state.gov>

Subject: CPA MEDIA MONITORING: 14 May 2019



Alerts for 14 May 2019

"Srisuwan questions timing of weapons purchase", His statement said the purchase is uncalled for as Thailand is still suffering from an economic slowdown and that a new government has yet to be formed.

"Multilateral Presence and the Free and Open Indo-Pacific", For advocates of the so-called "Quad" comprising the United States, Japan, Australia, and India, a big-ticket quadrilateral exercise has long been a priority. But there are options for these countries short of a major, coordinated set of exercises. Simply demonstrating presence together can go a long way in underscoring the principles that should underlie a free and open Indo-Pacific.

"UN deminers in Yemen start clearing Hodeidah ports as Houthis withdraw", A team of UN deminers began clearing thousands of landmines and explosives planted by Houthis around the ports of Hodeidah on Monday, as the rebel withdrawal from the three Red Sea ports continues, according to the spokesman for the progovernment forces in Hodeidah.

"New Rules for Gun Exports Smooth Path for 3D Weapons Overseas, Groups Warn", The Trump administration's proposals to ease restrictions on firearms exports will create "new and unacceptable risks of exacerbating gun violence, human rights abuses, and armed conflict," a coalition of 100 organizations warned in an open letter to Congress Tuesday.

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- <u>"U.N. says Hodeidah withdrawal "executed, partly as agreed" by parties"</u>, The withdrawal was a diplomatic breakthrough after months of stalling by both parties and takes place at a time of heightened tension in the Arab Gulf region that could complicate peace efforts led by U.N. envoy Martin Griffiths.
- <u>"Can the PLA get across the Taiwan Strait?"</u>, So in purely military terms, and without considering the political and economic damage to the PRC from such an attack, and the possibility of US and Japanese forces stepping in, a Chinese amphibious assault is already feasible.
- <u>"Saudi Arabia says oil facilities outside Riyadh attacked"</u>, Saudi Arabia said armed drones had struck two oil pumping stations in the kingdom on Tuesday in what it called a "cowardly" act of terrorism two days after Saudi oil tankers were sabotaged off the coast of the United Arab Emirates.
- "Pentagon warns EU against blocking U.S. companies from defense pact", As France and Germany seek to develop a next-generation European fighter jet, Washington said it noticed "restrictive language" in draft texts that failed to reciprocate U.S. openness to involving European companies in its contracts.
- <u>"China, Russia move into the Arctic and put US at risk"</u>, In the Arctic, U.S. security interests are closely linked to allies' and partner nations' freedom from both coercion and threats to their territorial integrity. U.S. economic interests are closely linked to the maintenance of exclusive economic zones (EEZs) for resource extraction, and to regional freedom of navigation in Arctic international waters.
- "Air Force has already received the first of three modernized F-16s", According to Lusa, the spokesman for FAP, Manuel Costa, the expected date for delivery of the second aircraft is the end of July and the last one at the end of the year.
- <u>"Is Made-for-India Lockheed Martin F-21 Fighter Jet Better Than Pakistan Air Force's F-16 Plane?"</u>, Lall also said if Lockheed wins the contract, it will not only set up a state-of-the-art F-21 manufacturing facility along with the Tata Group but will also help India create an ecosystem for overall growth of the country's defence manufacturing.
- "Congressional appropriators move to tie up F-35 deliveries to Turkey", Lawmakers in both chambers have previously sought to block the F-35 sale as stand-alone bills, but including the language in the foreign aid spending package increases the likelihood that it will become US law.
- "How Turkey Defied the U.S. and Became a Killer Drone Power", U.S. exports of armed Predator and Reaper drones are subject to congressional and military oversight, so the process of acquiring them remains long and complicated. Some buyers have opted instead to purchase armed drones from China, which has sold to nearly a dozen countries its CH-4, a drone that has capabilities on par with the Predator (though is less sophisticated than the Reaper). Yet even if major developers like the U.S. or China decide to restrict the sale of armed drones, the genie is out of the bottle the technology itself can now be replicated. That's what Turkey has done.
- "AP Explains: How Yemen's rebels increasingly deploy drones", While the U.S. uses American-made drones and the coalition has turned to Chinese suppliers, the manufacturer of the Houthis' drones in both the air and the sea has been a contentious question.
- "Cameroon's Separatist Movement Is Going International", There is no shortage of those allegations against the Cameroonian military, and there is an increasing pile of evidence that some U.S.-supported units may indeed have been diverted by Biya's government to put down the Anglophone crisis. In February, a general from the BIR was killed in an ambush in the Southwest town of Lebialem.
- <u>"Letter to Congress Firearms Exports"</u>, The Administration's proposal guts Congress' authority to provide oversight of firearms exports. Currently, Congress is notified of firearms sales authorized by the State

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Department valued at \$1 million or more. No such notification requirements will exist if these weapons are transferred to Commerce control. In recent years, Congressional notification has been an important backstop, helping forestall firearms transfers to repressive forces, such as those in Turkey and the Philippines.

<u>"US should sell advanced fighters to Taiwan"</u>, Initially, Taiwan was seeking to acquire a high-end, heavy American combat jet, either an advanced derivative of the F-15EX Eagle heavy air superiority fighter or the stealthy F-35 fifth-generation light multirole fighter. Taipei has reportedly settled on the F-16V as a less capable alternative. This notably came as a result of the United States' reluctance to sell its longstanding ally other higher-end combat jets, which was due to defense technology security factors.

<u>"The Case for Suspending American Arms Sales to Saudi Arabia"</u>, The United States could, in theory, impose stricter end-user controls on Saudi Arabia. This would have the advantage of keeping Saudi Arabia within the world of U.S. weapons systems, and might prevent it from diversifying its suppliers, which would ultimately weaken any leverage the United States might have.

"Initial US military assessment points to Iran in sabotage of oil tankers: report", The U.S. had previously warned of efforts by "Iran or its proxies" to target ships in the region as tensions between the Trump administration and Tehran continue and U.S. sanctions make Iranian oil untouchable for many buyers.

"The US military is exploring a plan to deploy 120,000 troops to the Middle East as tensions with Iran intensify", The US military briefed President Donald Trump's national-security aides on a revamped plan that could result in the deployment of up to 120,000 troops to the Middle East, according to national-security officials cited in a New York Times report published Monday.

"Russia Won't Start a (Conventional) War in the Baltics", Western military planners need to reorganize and align units in such a way that they can handle Russian hybrid warfare, while preparing for a conventional attack as a secondary measure.

<u>"UN Warns Crisis in Anglophone Cameroon Worsening"</u>, The U.N. warned Monday that Cameroon has become one of the fastest-growing displacement crises in Africa, and that the security and humanitarian situations are deteriorating and risk spiraling out of control.

"U.S. tariffs on China goods may cut Thai exports as much as \$6.7 billion: ministry", Thailand's exports could fall between \$5.6 billion to \$6.7 billion because of new U.S. tariffs on Chinese goods, the Thai commerce ministry said on Tuesday.

"Russia Seeks to Exploit Escalating Troubles in the Middle East", Russian policy in the Middle East is usually more effective in conflict environments than in peace-building, but presently the interplay of various crises has intensified beyond Moscow's capacity to manipulate them.

"Like it or not, the U.S. needs to be a key part of Canada's next-gen jet procurement process", According to letters released last week, though, the U.S. government threatened to pull the Lockheed Martin F-35 from consideration last year over Ottawa's insistence that Canada receive industrial benefits from the winning bid. In response, Ottawa relaxed its requirement on Thursday: Where bidders once had to commit to spend 100 per cent of the value of the aircraft's acquisition and sustainment in Canada, bids will now only lose points in a three-category scoring system in the review process, instead.

<u>"U.S. Military Slashes Foreign-Language Training"</u>, As U.S. President Donald Trump diverts more military resources to his long-promised wall with Mexico and seeks to reduce the United States' troop presence abroad, his Pentagon is slashing funding for the Defense Language Institute's overseas immersion programs, which help prepare students for duty abroad.

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"Army seals deal to buy US armour", It was earlier expected the Thai army might make a further purchase of Chinese-made vehicles, but army chief Apirat Kongsompong managed to secure a deal with the US, the source said.

<u>"US, Poland to Discuss Potential F-35 Sale, Air Force Secretary Says"</u>, The American team is expected to discuss the costs of buying the Lockheed Martin-made jet as well as the warfighting capabilities it would bring to the Polish military.

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Subject: CPA MEDIA MONITORING: 15 May 2019



Alerts for 15 May 2019

"French Forces Free Hostages in Burkina Faso With U.S. Help", Whatever the American involvement was, it is unlikely that there were American casualties. France has by far the largest military contingent in West Africa, some 4,500. The United States has been involved in training of the Burkinabe military, so the total number of U.S. troops present is likely small.

"India Prunes Purchase of 22 American Sea Guardian Drones — Source", India had plans to purchase 22 Sea Guardian drones for the navy, valued at around \$2 billion. Instead, it will be around 12 such drones according to the new proposal, as the ministry wants to maximise the utilisation of the limited financial resources available to it, the source added.

<u>"Russia Ready to Export Su-57 Stealth Fighter Jet to India"</u>, Russia's military aircraft industry is continuing its efforts to promote an export variant of the Sukhoi Su-57 fighter aircraft, Russia's first purported indigenously designed and built fifth-generation stealth fighter jet, to the Indian Air Force.

"Iraq Yet to Make Decision on Purchase of S-400 From Russia – Ambassador", When asked about Washington's possible moves to hinder the purchase, the envoy said that there are "relevant diplomatic channels" to solve this kind of issue with the Americans.

"Appropriators seek to freeze Pompeo's travel fund until he forks over budget plan", House appropriators are threatening the "extraordinary step" of putting a hold on Secretary of State Mike Pompeo's diplomatic travel allowance if his department continues to break federal rules for keeping Congress clued in on budget plans.

"Admiral: US hasn't stepped up sea patrols to confront China", Chief of Naval Operations Adm. John Richardson, addressing an international security conference in Singapore, sought to reassure regional partners, some of whom have opposing claims in the waters but benefit from good relations with China on other fronts.

"Trump officials to brief lawmakers after warning of Iranian threats", Speaker Nancy Pelosi, Senate Majority Leader Mitch McConnell, House Minority Leader Kevin McCarthy and Senate Minority Leader Chuck Schumer will take part in the confidential briefing by Trump administration officials, according to two Democratic sources.

"Fighting grips Yemen's Hodeidah port, complicating peace moves", Houthi fighters and Saudi-backed progovernment forces battled in Yemen's port city of Hodeidah on Wednesday, breaching a ceasefire and potentially complicating a troop withdrawal agreement intended to pave the way for wider peace talks.

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"Ukrainian Ambassador Lobbies For Additional US Funding For Kiev's Defense Sector In Senate", Ukrainian Ambassador to the United States Valeriy Chaly has met with US Republican Sen. Roy Blunt to discuss bilateral relations and the possibility of Washington increasing its funding for Ukraine's security and defense, the Ukrainian Embassy in the United States said on Wednesday.

"It's Time To Stop Arms Sales To Saudi Arabia", There are several congressional initiatives to cut off U.S. arms to the Saudi/UAE coalition, including a bipartisan bill co-sponsored by Senators Robert Menendez (D-NJ), Todd Young (R-IN), Jeanne Shaheen (D-NH), Lindsey Graham (R-SC), Susan Collins (R-ME), Jack Reed (D-RI), and Chris Murphy (D-CT). That measure would, among other things, stop sales of precision-guided bombs to Saudi Arabia and the UAE for two years and condition other sales of offensive weapons on an end to the targeting of civilians and assurances that Saudi Arabia and the UAE will support the free passage of humanitarian aid. And a bill sponsored by Rep Jim McGovern (D-MA) would immediately end all U.S. arms sales and military aid to Saudi Arabia.

"Tackling the Forensic Unknowns of 3D-printed Firearms", Since the world's first functional 3D-printed firearm was designed in 2013, such guns have increasingly been in the news. Proponents of the firearms – 3D-printed with polymers from digital files – maintain that sharing blueprints and printing the guns are protected activities under the First and Second Amendments. Opponents argue the guns are concerning because they are undetectable and also untraceable since they have no serial numbers.

"Menendez demands briefing on Trump's Iran plans", He noted that his committee is charged with authorizing military force, and that the Trump administration has provided no information on the intelligence on the specific threats from Iran, which spurred the Pentagon to send ships, bombers and air defense missiles to the Middle East.

"AIM Norway, Lockheed Martin agree to establish 'Falcon Depot' F-16 sustainment hub", Lockheed Martin, the original equipment manufacturer and design authority of the F-16, is leveraging AIM's extensive technical expertise and MRO experience to support the Royal Norwegian Air Force, regional customers and the global F-16 fleet.

"Boeing receives \$10M in support of Harpoon missile production for Saudi Arabia", According to a Department of Defense statement, this modification provides for obsolescence redesign efforts in support of the production and delivery of AGM-84 Harpoon Block II Missiles for the government of Saudi Arabia.

"Trump officials slow-walk president order to cut off Central American aid: report", A senior Democratic official told the news outlet that they have "heard nothing" from the Trump administration about Honduras, Guatemala and El Salvador funding.

"The US has donated more than a billion dollars [to Montenegro]", The United States donated has more than \$5 million to Montenegro over the past five years. A State Department official that Pobjeda spoke with said that so far through the program, Montenegro has received millions of dollars of equipment and assistance to modernize the army and provide U.S. training.

"Cameroon's President Ready to Talk About Anglophone Crisis", Cameroon's President Paul Biya is ready for talks about the grievances of residents living in the country's English-speaking regions to end an insurgency in which hundreds of people have died.

"Turkey Foreign Minister Says Russian Missile Purchase Delay Not on Agenda", Turkey rebuffed a U.S. request to postpone the purchase of a Russian missile-defense system in a move that could further strain ties between the NATO allies.

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"Pirate attacks continue in West Africa", The Gulf of Guinea has recorded its third ship hijacking this month, with a chemical tanker captured off Togo, as the region continues to see a spike in maritime insecurity.

<u>"Foreign military activity increasing in the Horn of Africa"</u>, The Horn of Africa region has experienced a substantial increase in the number and size of foreign military deployments since 2001, especially in the past decade, SIPRI said. The most visible aspect of this presence is the proliferation of military facilities in littoral areas along the Red Sea and the Horn of Africa. However, there has also been a build-up of naval forces, notably around the Bab el-Mandeb Strait, at the entrance to the Red Sea and in the Gulf of Aden.

"Security forces defuse 20 landmines, rescue lives in S. Afghanistan", The landmines and improvised explosive devices (IEDs) have been planted by anti-government militants for terrorist activities, in Shah Wali Kot district's Charchenar village, where engineering teams of provincial police discovered them, the ministry said in a statement.

"South Africa wants specialist UN training teams to up peacekeeping professionalism", South Africa's deputy permanent representative to the world body, Ambassador Xolisa Mabhongo, proposed the UN give consideration to technical training teams to present workshops at peacekeeping training institutions of both troop and police contributing countries.

"US troops relocating to Guam but scepticism in Okinawa lingers. And even some in the US military are unconvinced", The long-delayed relocation of US troops from Japan's Okinawa Prefecture to the Pacific island of Guam could commence in October 2024 and be completed within 18 months, although the transfer has been criticised by opponents of US bases in the region and even questioned by the US military itself.

"Indonesia-Vietnam Maritime Clash a Sign of Rising Indo-Pacific Tensions", Although Vietnamese fishing vessels account for more than half of all illegal fishing vessels seized and destroyed in Indonesia's territorial waters, in recent years the more provocative actions by foreign fishing fleets in Indonesia's exclusive economic zone have involved Chinese maritime militia.

"Stopping Key Tech Exports To China Could Backfire, Researchers And Firms Say", Knock-on effects from export controls could cut the U.S. off from a global research community. Meanwhile, China would race ahead on its own in basic research.

"Should Israel do without US financial aid?", If Israel could manage without US financial aid, remaining friends while continuing US-Israeli cooperation on all fronts, it would be able to make decisions with only its own needs in mind.

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Subject: CPA Media Monitoring: The Trace: Plans for 3D-Printed Guns Are Still Accessible on Twitter and YouTube



Plans for 3D-Printed Guns Are Still Accessible on Twitter and YouTube By Sean Campbell 17 May 2019

Twitter says it bans the promotion of blueprints for 3D-printable weapons. YouTube's policy explicitly prohibits videos that demonstrate how to make firearms. Despite these public proclamations, a review by The Trace finds that users on both social media platforms are freely distributing designs and instructions for assembling so-called ghost guns with few repercussions.

Among the accounts we found were users — some with thousands of followers — sharing the files to make a multitude of firearms and accessories, including magnums, AR-15s, Glocks, and bump stocks. A few of these Twitter posts have been retweeted or liked nearly 300 times. Some videos on YouTube have millions of views.

Senator Robert Menendez of New Jersey has pushed social media platforms to take more action against users sharing designs for DIY firearms. "It's an unacceptable abdication of their responsibility," he said of the platforms.

In an open letter to Twitter CEO Jack Dorsey in April, Menendez urged the company to block the distribution of 3D-printable gun blueprints. He singled out a user who went by the handle @IvanTheTroll12, who had been brought to the senator's attention by his staff.

In an interview with Ivan (he did not want to reveal his real name), he confirmed to The Trace that he has been posting gun blueprints to various social media platforms for several months. Ivan identified himself as a libertarian who supports gun rights and opposes any effort to restrict the free distribution of information.

On April 12, over a month after Menendez's letter, Twitter suspended Ivan's handle, @IvanTheTroll12. A week later on April 19, Ivan reappeared under a new account name, which he has used to continue sharing more gun design files and is still active at the time of publication.

On April 29, over two months after the senator's missive, Twitter sent Menendez what appears to be a form letter, in which the social media company said that the original Ivan account had been permanently removed. The company cited a corporate policy prohibiting the promotion of 3D gun printing on its site. But according to the text on Twitter's website the company quoted from, that policy only applies to "Twitter's paid advertising products," not general users. The company's letter said further that a "closer review" revealed Ivan's account was disabled for "evading an account suspension."

"It doesn't take a rocket scientist to figure out that Ivan the Troll would end up opening a new account under another name," Menendez said. "Social media platforms, which we applaud for allowing the public forum to take place, need to do self policing to ensure that public safety is preserved."

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In response to a list of questions concerning Ivan's ban and Twitter's policy on sharing 3D-printed gun files, a Twitter spokesperson pointed to a company policy separate from the rationale given to Menendez. "Accounts sharing 3D-printed gun designs are in violation of the Twitter Rules' unlawful use policy," the spokesperson wrote in an email, and pointed to the specific line from the company's site: "You may not use our service for any unlawful purposes or in furtherance of illegal activities."

New Jersey and California are the only states with laws prohibiting the distribution of guns and gun designs that lack serial numbers and are therefore untraceable by law enforcement. Federal policy on the issue remains murky and subject to ongoing litigation. The Justice Department under President Donald Trump reversed Obama-era guidance and allowed an infamous distributor of online weapons blueprints, Defense Distributed, to publish 3D-printed gun files on First Amendment grounds. But in August of last year, a judge indefinitely blocked the company from publishing the files.

With the law on sharing gun files across jurisdictions remaining unsettled, Menendez said he believes social media platforms should take a more active role in keeping the files off their networks.

Last year, he was one of five senators who signed an open letter urging Twitter, Facebook, Google (YouTube's parent company), Microsoft, Reddit and other tech firms to prevent 3D gun blueprints from circulating.

For his part, Ivan said he believes that nothing in the company's rules or terms of service prevents the sharing of gun plans. He said that when his account was temporarily suspended, it was not for anything related to gun plans, but for a separate instance of "hateful conduct." He says Twitter has not cited a specific tweet to justify its decision to bar his former handle.

"Twitter is a private company, so they can do as they please," Ivan said. "The shady way in which they are doing it isn't acceptable, however. Just come out and say you oppose this aspect of free speech if that's the line you want to take."

Ivan is also linking to his gun plans and hosting videos that show how to assemble the printed parts on YouTube. Unlike Twitter, the policy for Google's streaming video platform explicitly prohibits content with the purpose of instructing viewers on how to make firearms.

Ivan is not alone in flouting YouTube's policy. The user "Guy in a garage" has a video showing the assembly of a 3D-printed magnum with over 3,000,000 views. Another, "derwoodvw," demonstrates a printed MP1 with links to design files.

On Twitter, the user @fosscad has over 3,000 followers and is openly sharing gun plans for AR-15s, Glocks, and AP-9s. The user @FreeSpeech4You boasts in one post, "Download A bump stock, an AR15, a 30 round mag – it's all here baby." Both refer followers to files hosted on the popular computer coding platform GitHub, a subsidiary of Microsoft. The files contain designs for grenades, ammunition, and firearm accessories. There is no language explicitly barring 3D-printed gun plans in GitHub's terms of service.

GitHub did not immediately respond to a request for comment.

Other platforms have clearer policies in place forbidding or discouraging the distribution of gun blueprints. Facebook has an outright ban. And while Reddit is allowing its users to talk about Ivan's 3D printed guns, the website is actively monitoring the discussion to ensure that overt links to Ivan's designs are not shared.

"Let's keep it to discussion in here and not sharing scary files so that we stay on the happy (and not banned) side of Reddit," wrote one of the moderators in a subreddit thread about 3D-print ghost guns

Link: https://www.thetrace.org/2019/05/3d-printed-guns-twitter-youtube-social-media-platforms/

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Subject: CPA MEDIA MONITORING: 20 May 2019



Alerts for 20 May 2019

"In the Pacific, US Army Must Be a Running Back Who Blocks", But more is needed to support joint missions across a vast, complicated, and hypercompetitive region. The Army must increase its depth, by nurturing longstanding relationships with treaty allies and traditional partners and cultivating new partnerships based on common need and interest.

"Here's Exactly Who's Profiting from the War on Yemen", By law, the department's Bureau of Political-Military Affairs must approve any arms sales by U.S. companies to foreign governments. U.S. law also prohibits sales to countries that indiscriminately kill civilians, as the Saudi-led military coalition bombing Yemen did in the Mastaba strike and many other documented cases. But ending sales to Saudi Arabia would cost the U.S. arms industry its biggest global customer, and to do so, Congress must cross an industry that pours millions into the campaigns of lawmakers of both parties.

"Cybersecurity Technology Sales to Foreign Governments: Who's In Charge?", We have new legislation introduced earlier this month that would hold the State Department accountable for approving the sale of U.S. cybersecurity technology to foreign governments, Reuters reported. The bill, which passed the House Appropriations subcommittee, not only would compel the State Department to report to Congress its determining criteria for sales of U.S. cybersecurity tools to other countries, the agency would also have to detail its response to nations that violated its rules in the past year, according to the report.

"Here's A (Military) Solution to China's Vast Claims in the South China Sea", The United States and the Philippines have been discussing whether the Filipino military should buy the High-Mobility Artillery Rocket System (HIMARS), a multiple rocket launcher used by the United States and other nations, according to the South China Morning Post.

"LMT Defense Announces Award with Estonian Defence Forces", LMT Defense have confirmed their award of the contract for the Estonian Defence Forces new 5.56×45 and 7.62x51mm rifles. We have been closely following the Estonian rifle trials here at TFB and back in December 2018, we reported that Estonia's military had chosen two of LMT's rifles. The contracts have now been signed and production and deliveries will begin soon.

<u>"Plans for 3D-Printed Guns Are Still Accessible on Twitter and YouTube"</u>, With the law on sharing gun files across jurisdictions remaining unsettled, Menendez said he believes social media platforms should take a more active role in keeping the files off their networks.

"Philippines Prefers China Loans Over U.S. 'Strategic Confusion' in South China Sea", President Rodrigo Duterte prefers China's offer of loans and investments in the absence of a clearer stance from the U.S. in the

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disputed sea amid growing rivalry between the two nations, Philippine Foreign Affairs Secretary Teodoro Locsin said.

- <u>"Is War Coming With Iran? We're Already in One"</u>, Trump has said that if the United States doesn't sell weapons to Saudi Arabia, then Russia or China will. But Saudi Arabia needs American spare parts, and it also buys U.S. weapons partly for the implicit security guarantee that comes with them. No other country can provide that security blanket.
- <u>"US-Thailand Alliance in the Spotlight with New Combat Vehicle Deal"</u>, Last week, the Royal Thai Army disclosed that it would move forward with a new combat vehicle deal with the United States. The development put the spotlight on the ongoing security collaboration between the United States and Thailand within the broader relationship and amid a range of domestic and regional developments for both sides.
- <u>"To pacify Trump, Indonesia seeks American arms"</u>, Indonesia is quietly talking to the United States about the purchase of 32 new Lockheed Martin F-16 Viper jets and six C-130J cargo aircraft in what may partly be an effort to remove the country from any possible sanctions as the US-China trade war returns to a boil.
- <u>"It's Time to End America's Blank Check Military Aid to Israel"</u>, To condition American aid on Israeli behavior would not single Israel out. In theory, the Foreign Assistance Act, as amended in the late 1990s, prohibits the United States from providing aid or training to any foreign military units that have committed "gross violations of internationally recognized human rights."
- "Congress Sets Its Sights on Undetectable, Untraceable "Ghost Guns", A bill recognizing the destructive potential of "ghost guns" has cleared a critical step in Congress and is now poised for a vote on the House floor. The House Committee on Homeland Security gave its stamp of approval on Wednesday to legislation that would direct the Department of Homeland Security (DHS) to prepare an annual threat assessment on so-called "ghost guns."
- "Do Non-US Defense Companies Require to Comply with ITAR?", The short answer is "it depends". It depends on whether or not the U.S origin defense articles including tangible items, components, spare parts, or technical data transferred, re-transferred, or re-exported by a foreign person. In short, being Non-US, or being located outside of the U.S. does not enough for ITAR to leave you alone. Additionally, once the defense articles exported from the U.S does not mean that the importer is free to re-export the items to another country. Re-exportation is still subject to ITAR regulations.
- <u>"3D-printed guns are back, and this time they are unstoppable"</u>, As of now, Ivan the Troll, Deterrence Dispensed, and the thousands many more 3D-printed gun enthusiasts connected to each other worldwide, have essentially let the cat out the bag. There is no way to stop the anonymous file sharing of 3D-printed guns online.
- "Pakistan wary of India, moves its F-16 fighters out of frontline bases", The Pakistan Air Force has taken out its F-16s from their home bases in Sargodha, Punjab, and Sindh and has deployed them at their satellite fields in a scattered manner, government sources have said.
- "Anatomy of a Taiwan Invasion, Part 3: Taiwan's Countermeasures", It would also make sense for the ROCArF to develop their Army and ground forces in a manner that seeks to exact maximal casualties in the event of a successful PLA amphibious invasion, at a beneficial opportunity cost for Taiwan. This could mean purchasing a greater number of man portable anti-tank missiles such as Javelin in lieu of additional attack helicopters or main battle tanks.
- "Colombia Army's New Kill Orders Send Chills Down Ranks", The head of Colombia's army, frustrated by the nation's faltering efforts to secure peace, has ordered his troops to double the number of criminals and militants

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they kill, capture or force to surrender in battle — and possibly accept higher civilian casualties in the process, according to written orders and interviews with senior officers.

- "House ratchets up pressure on Egypt", In recent years, House appropriators had resisted their Senate colleagues' demands to restrict Egyptian aid. But this year's bill indicates that the committee's new chairwoman, Rep. Nita Lowey, D-N.Y., is ready to take a tougher line on the crackdown on dissident voices under President Abdel Fattah al-Sisi.
- "American military aid beyond the money", The U.S. has received a return on its investment. Israel is a stable and democratic forward base of operations in a fragile and volatile region and the U.S. has been able to point to the performance of their weapons in the IDF's hands to boost sales across the globe.
- "Saudi Arabia intercepts Houthi missiles heading toward Mecca, Jeddah", Saudi Arabia's air forces on Monday intercepted two Houthi ballistic missiles over Taif, one heading for Mecca and the other for Jeddah, according to eyewitnesses.
- "UN blue helmets in South Sudan use Sustainable Development Goals to help build peace", The United Nations Mission in South Sudan (UNMISS) has concluded the week by harnessing the Sustainable Development Goals (SDGs) to support the nation, including by offering free medical services, encompassing SDG 3's target on health coverage.
- "Ahead of UNGA Resolution on Chagos, India Faces US-UK Pressure to Lean on Mauritius", With Mauritius preparing for another confrontation at the United Nations General Assembly, India is back in the thick of the backroom negotiations. The US and UK are trying to convince New Delhi's close ally in the Indian Ocean to modify and even dilute the provisions of the draft resolution.
- <u>"US clears \$1 billion in Raytheon weapons for Canada, South Korea and Japan"</u>, Canada has been cleared to purchase \$387 million worth of MK 54 lightweight torpedo conversion kits, South Korea \$313.9 million in SM-2 Block IIIB missiles, and Japan \$313 million worth of AIM-120C-7 Advanced Medium-Range Air-to-Air Missiles.
- <u>"U.S. Support Has Fueled, Not Moderated, the Yemen War"</u>, No overriding security interest—the argument for allying with the Soviet Union against Nazi Germany in World War II—compels Washington to join with oppressive, aggressive UAE and KSA in causing murder and mayhem in Yemen.
- <u>"Enhance women's capacity in conflict prevention, resolution Mohammed Ibn Chambas"</u>, The United Nations Special Representative for West Africa and the Sahel, Mohammed Ibn Chambas, has advocated the urgent inclusion of women in conflict prevention and resolution to sustain peace in the sub-region.
- "Major strategic implications if Iraq gets S-400", It depends on which Russian publication you believe TASS or Sputnik on whether Iraq may be buying the Russian advanced S-400 air-defense system. But no matter whether they buy the system today or tomorrow, it is clear Iraq is heading that way.
- "Former Polish defense minister presses for answers on fate of US Patriot buy", While the contract to deliver the first two Raytheon-made Patriot batteries is a done deal and being executed, questions have surfaced about whether the Polish government intends to fund plans to procure a total of eight batteries, which was supposed to go under contract in a second phase.
- "U.S. warship sails in disputed South China Sea amid trade tensions", It was the second such U.S. military operation in the South China Sea in the last month. On Wednesday, the chief of the U.S. Navy said its freedom of navigation movements in the disputed South China Sea drew more attention than they deserved.

Matthew Marquis

Office of Congressional & Public Affairs Bureau of Political-Military Affairs (PM/CPA) U.S. Department of State

Phone: 202.647.6968

e-mail: MarquisMR@state.gov | Web: www.state.gov/t/pm / |Twitter: @StateDeptPM

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Official

From: Frideres, Taryn F [FrideresTF@state.gov]

Sent: 5/28/2019 6:47:35 PM

To: Heidema, Sarah J [HeidemaSJ@state.gov]; String, Marik A [StringMA@state.gov]

CC: Miller, Michael F [Millermf@state.gov]

Subject: RE: Cats I-III

Attachments: L to D AM on Spring 2019 Unified Agenda (5-24-2019) PM edits.docx

Thanks, Sarah. The attached is missing PM clearance and the benefit of this background information below.

Can I request that L clear it with you, and then can you add a bit of additional background per the below?

Official - SBU UNCLASSIFIED

From: Heidema, Sarah J < HeidemaSJ@state.gov>

Sent: Tuesday, May 28, 2019 2:44 PM

To: String, Marik A <StringMA@state.gov>; Frideres, Taryn F <FrideresTF@state.gov>

Cc: Miller, Michael F < Millermf@state.gov>

Subject: RE: Cats I-III

Please let me know if additional background on this is needed or if you have any questions.

From: String, Marik A <<u>StringMA@state.gov</u>> Sent: Tuesday, May 28, 2019 2:19 PM To: Frideres, Taryn F <FrideresTF@state.gov>

Cc: Heidema, Sarah J <HeidemaSJ@state.gov>; Miller, Michael F <Millermf@state.gov>

Subject: Cats I-III

Taryn,

Thanks-Marik

Official - SBU UNCLASSIFIED

From: Heidema, Sarah J [HeidemaSJ@state.gov]

Sent: 5/28/2019 7:00:29 PM

To: Kottmyer, Alice M [KottmyerAM@state.gov]; Frideres, Taryn F [FrideresTF@state.gov]; Jessen, Amanda

[JessenA@state.gov]; Zadrozny, JohnA [ZadroznyJA@state.gov]; Mohamoud, Safia [mohamouds@state.gov];

McClintock, Judith [McClintockJ@state.gov]

CC: Johnson, Clifton M [JohnsonCM5@state.gov]; M_Clearance [M_Clearance@state.gov]; SP_Staff Assistants

[SP_StaffAssistants@state.gov]; String, Marik A [StringMA@state.gov]; Donnelly, Colleen G [DonnellyCG@state.gov]

Subject: RE: ** FOR REVIEW** Repurposing of the Unified Agenda Action Memo, from M to D

Attachments: L to D AM on Spring 2019 Unified Agenda (5-24-2019) PM edits 2.docx

Attached, per previous communications with Taryn, are additional PM edits for L's consideration.

From: Kottmyer, Alice M <KottmyerAM@state.gov>

Sent: Tuesday, May 28, 2019 2:58 PM

To: Frideres, Taryn F <FrideresTF@state.gov>; Jessen, Amanda <JessenA@state.gov>; Zadrozny, John A <ZadroznyJA@state.gov>; Mohamoud, Safia <mohamouds@state.gov>; McClintock, Judith <McClintockJ@state.gov> Cc: Johnson, Clifton M <JohnsonCM5@state.gov>; M_Clearance <M_Clearance@state.gov>; SP_Staff Assistants <SP_StaffAssistants@state.gov>; String, Marik A <StringMA@state.gov>; Donnelly, Colleen G <DonnellyCG@state.gov>; Heidema, Sarah J <HeidemaSJ@state.gov>; Kottmyer, Alice M <KottmyerAM@state.gov>

Subject: RE: ** FOR REVIEW** Repurposing of the Unified Agenda Action Memo, from M to D

Now is okay. if you're free.

Or any time. This is a fairly high priority for us.

Official

UNCLASSIFIED

From: Frideres, Taryn F < Frideres TF@state.gov>

Sent: Tuesday, May 28, 2019 2:51 PM

To: Jessen, Amanda < JessenA@state.gov>; Zadrozny, John A < ZadroznyJA@state.gov>; Kottmyer, Alice M < KottmyerAM@state.gov>; Mohamoud, Safia < mohamouds@state.gov>; McClintock, Judith < McClintockJ@state.gov> Cc: Johnson, Clifton M < JohnsonCM5@state.gov>; M_Clearance < M_Clearance@state.gov>; SP_Staff Assistants < SP_StaffAssistants@state.gov>; String, Marik A < StringMA@state.gov>; Donnelly, Colleen G < DonnellyCG@state.gov>; Heidema, Sarah J < HeidemaSJ@state.gov>

Subject: RE: ** FOR REVIEW** Repurposing of the Unified Agenda Action Memo, from M to D

Thanks.

Alice – I have some technical questions. Let me know a good time to call.

Official - SBU UNCLASSIFIED

From: Jessen, Amanda < Jessen A@state.gov>

Sent: Tuesday, May 28, 2019 1:07 PM

To: Zadrozny, John A <<u>ZadroznyJA@state.gov</u>>; Kottmyer, Alice M <<u>KottmyerAM@state.gov</u>>; Mohamoud, Safia <mohamouds@state.gov>; Frideres, Taryn F <FrideresTF@state.gov>; McClintock, Judith <McClintockJ@state.gov>

Case 2:20-cv-00111-RAJ Document 106-13 Filed 09/23/20 Page 192 of 378

Cc: Johnson, Clifton M <<u>JohnsonCM5@state.gov</u>>; M_Clearance <<u>M_Clearance@state.gov</u>>; SP_Staff Assistants <<u>SP_StaffAssistants@state.gov</u>>; String, Marik A <<u>StringMA@state.gov</u>>; Donnelly, Colleen G <<u>DonnellyCG@state.gov</u>>; Heidema, Sarah J <HeidemaSJ@state.gov>

Subject: RE: ** FOR REVIEW** Repurposing of the Unified Agenda Action Memo, from M to D

+ Taryn Frideres as well.

Amanda K. Jessen

Special Assistant to the Deputy Secretary U.S. Department of State 202-647-5888

From: Zadrozny, John A < Zadrozny JA@state.gov>

Sent: Tuesday, May 28, 2019 12:48 PM

To: Kottmyer, Alice M < <u>KottmyerAM@state.gov</u>>; Mohamoud, Safia < <u>mohamouds@state.gov</u>>; Jessen, Amanda < <u>JessenA@state.gov</u>>

Cc: Johnson, Clifton M < <u>JohnsonCM5@state.gov</u>>; M_Clearance < <u>M_Clearance@state.gov</u>>; SP_Staff Assistants < <u>SP_StaffAssistants@state.gov</u>>; String, Marik A < <u>StringMA@state.gov</u>>; Donnelly, Colleen G < <u>DonnellyCG@state.gov</u>>; Heidema, Sarah J < <u>HeidemaSJ@state.gov</u>>

Subject: RE: ** FOR REVIEW** Repurposing of the Unified Agenda Action Memo, from M to D

Alice:

Clear for S/P on Sarah's edited version.

John A. Zadrozny

Policy Planning Staff (S/P) Office of the Secretary U.S. Department of State w: (202) 647-0531

c: (202) 341-1829

Official - SBU

UNCLASSIFIED

From: Kottmyer, Alice M <KottmyerAM@state.gov>

Sent: Tuesday, May 28, 2019 11:58 AM

To: Zadrozny, John A <<u>ZadroznyJA@state.gov</u>>; Mohamoud, Safia <<u>mohamouds@state.gov</u>>; Jessen, Amanda <JessenA@state.gov>

Cc: Johnson, Clifton M < <u>JohnsonCM5@state.gov</u>>; M_Clearance < <u>M_Clearance@state.gov</u>>; SP_Staff Assistants < <u>SP_StaffAssistants@state.gov</u>>; String, Marik A < <u>StringMA@state.gov</u>>; Donnelly, Colleen G < <u>DonnellyCG@state.gov</u>>; Heidema, Sarah J < <u>HeidemaSJ@state.gov</u>>; Kottmyer, Alice M < <u>KottmyerAM@state.gov</u>>

Subject: RE: ** FOR REVIEW** Repurposing of the Unified Agenda Action Memo, from M to D

John.			
,			

Can S/P clear?

Alice

Official - SBU UNCLASSIFIED

From: Zadrozny, John A < Zadrozny JA@state.gov>

Sent: Tuesday, May 28, 2019 10:02 AM

To: Kottmyer, Alice M < Kirkland, Kendra D < KirklandKD@state.gov>; Mohamoud, Safia kirklandKD@state.gov>; Mohamoud, Safia kottmyerAM@state.gov>; Mohamoud, Safia kirklandKD@state.gov>; Mohamoud, Safia kottmyerAM@state.gov>; Mohamoud, Safia kottmyerAM@state.gov>; Mohamoud, Safia kottmyerAM@state.gov); Mohamoud, Safia <a href="mailto:k

Cc: Johnson, Clifton M <<u>JohnsonCM5@state.gov</u>>; M_Clearance <<u>M_Clearance@state.gov</u>>; SP_Staff Assistants <<u>SP_StaffAssistants@state.gov</u>>; String, Marik A <<u>StringMA@state.gov</u>>; Donnelly, Colleen G <<u>DonnellyCG@state.gov</u>>

Subject: RE: ** FOR REVIEW** Repurposing of the Unified Agenda Action Memo, from M to D

Alice:

John A. Zadrozny

Policy Planning Staff (S/P) Office of the Secretary U.S. Department of State w: (202) 647-0531

c:

Official - SBU UNCLASSIFIED

From: Kottmyer, Alice M <KottmyerAM@state.gov>

Sent: Friday, May 24, 2019 3:51 PM

To: Kirkland, Kendra D <<u>KirklandKD@state.gov</u>>; Zadrozny, John A <<u>ZadroznyJA@state.gov</u>>; Mohamoud, Safia <<u>mohamouds@state.gov</u>>; Jessen, Amanda <<u>JessenA@state.gov</u>>

Cc: Johnson, Clifton M <<u>JohnsonCM5@state.gov</u>>; M_Clearance <<u>M_Clearance@state.gov</u>>; Kottmyer, Alice M <<u>KottmyerAM@state.gov</u>>

Subject: ** FOR REVIEW** Repurposing of the Unified Agenda Action Memo, from M to D

Importance: High

Colleagues,



Please respond by 1pm on Tuesday, 5/28.

Thanks again for your help.

Alice Kottmyer

Case 2:20-cv-00111-RAJ Document 106-13 Filed 09/23/20 Page 194 of 378

Attorney-Adviser | Office of Management Department of State 202-647-2199 | BB kottmyeram@state.gov

Official

From: Koelling, Richard W [KoellingRW@state.gov]

Sent: 5/29/2019 11:38:07 AM

To: PM-DTCP-RAA [PM-DTCP-RAA@state.gov]
Subject: FW: CPA MEDIA MONITORING: 28 May 2019

Folks, yesterday's offering.

Richard W. Koelling, Jr.
Deputy Director (Acting)
Office of Defense Trade Controls Policy
Department of State
202-663-2828

From: Marquis, Matthew R < MarquisMR@state.gov>

Sent: Tuesday, May 28, 2019 4:48 PM

To: Windecker, Melissa A < WindeckerMA@state.gov>; PM-Strategy < PM-Strategy@state.gov>

Cc: PM-CPA <PM-CPA@state.gov>; Brown, Stanley L <BrownSL@state.gov>; O'Keefe, Kevin P <OKeefeKP@state.gov>; Miller, Michael F <Millermf@state.gov>; Mak, Daniella <MakD@state.gov>; Dudding, Maria <DuddingM@state.gov>;

Nute, Kathryn M <NuteKM3@state.gov>; McVerry, James <James.Mcverry.ctr@dla.mil>; Phalen, Susan A

<PhalenSA@state.gov>; chandrawhalenlaw@gmail.com; PM-Directors <PM-Directors@state.gov>; PM-Deputy-Directors

<PM-Deputy-Directors@state.gov>; Cooper, R. Clarke <CooperRC@state.gov>

Subject: CPA MEDIA MONITORING: 28 May 2019



Alerts for 28 May 2019

"US training and security assistance may be empowering Egyptian war crimes, says human rights group", A major human rights group has accused the Egyptian military of human rights violations on the Sinai Peninsula and is calling for the U.S. government to halt security assistance to the country, which includes arms exports and joint training between the Egyptian military and U.S. forces.

"US removing Eritrea from counterterror non-cooperation list", Eritrea is one of the world's most closed-off nations but last year it agreed to a remarkable restoration of ties with neighboring Ethiopia, two decades after a bloody border war. The diplomatic breakthrough contributed to the United Nations Security Council lifting sanctions on Eritrea late last year.

<u>"Trump's arms sale to Saudis undermines US values"</u>, Under the Arms Export Control Act, the President can bypass the congressional approval process if he feels an "emergency exists which requires the proposed sale in the national security interest of the United States." But, as the President found out when he tried to circumvent Congress to fund parts of his border wall, declaring a questionable emergency can be a frowned-upon decision, met with great pushback.

"From Colombia, Venezuelan defectors arm themselves to 'liberate' their homeland", A Colombian intelligence official, who asked not to be identified, said the intelligence service had detected an unspecified number of Venezuelan militia groups in the country but could not act against them because they had not yet committed any crimes. Separately, a high-level Colombian government official who asked not to be named said arrestable offences could include illegal possession of weapons and conspiracy to commit a crime.

"How a legal loophole is helping Trump sell arms to Saudi Arabia", Technically, both chambers could pursue stand-alone legislation to prohibit one or more of the proposed arms sales to Saudi Arabia or the UAE, but without the specified language in the ACEA that allows for guaranteed expedited consideration of joint resolutions of disapproval, there is hardly any chance Senator Mitch McConnell (R-Kentucky) would allow any legislation constraining the Trump administration to move forward in the Senate.

"A Decentralized Network of 3D Printed Gunsmiths is Spreading Online", A global network of self-defense rights advocates is using the internet to anonymously share blueprints for 3D printed guns. Unlike previous attempts to popularize 3D printed firearms, this operation is entirely decentralized. There's no headquarters, no face of the movement, no trademarks.

"Florida Congressmen Look to Build Ties With Allies in Eastern Mediterranean", "This bipartisan legislation will continue to enhance our energy and security cooperation with our allies in the Eastern Mediterranean region," Rubio said when the bill was unveiled. "By lifting the U.S. arms embargo on Cyprus and extending necessary Foreign Military Assistance to Greece, this legislation brings forth a comprehensive approach to the stability of key regional partners."

<u>"The challenges facing the Blue Helmets"</u>, Observers also point out that when operations are given the green light, the UN is now often deploying personnel into countries where the line between peacekeeping and warfare is very blurred and the role of such contingents is at best peacemaking not peacekeeping.

<u>"Serbian Troops on Full Alert After Kosovo Police Arrests"</u>, Any Serbian armed incursion into Kosovo would mean a direct clash with NATO-led peacekeepers there. Lately, Serbia has been making frequent military threats against Kosovo as its political and military alliance with Russia grows stronger despite a proclaimed European Union membership goal.

"Arms Makers Tell Investors That Iran Tension Fuels Business", The defense industry is far from an idle observer of the conflict. Major firms spend big sums on lobbying to influence the Pentagon's budget — money that came primarily from Congress in the first place. The last National Defense Authorization Act includes several provisions on Iran, including a directive that U.S. allies "build an interoperable ballistic missile defense architecture ... to defend against the Islamic Republic of Iran missile threat" and that the secretary of defense develop a plan to counter the "destabilizing activities of Iran."

"How ISIS Still Threatens Iraq", After the Islamic State took over large portions of Iraq for three years, Iraq's military, with U.S. help, drove out the self-declared caliphate by the end of 2017. But Iraqi forces remain internally divided among a plethora of armed factions. And while the Islamic State has been largely decimated, pockets of the organization remain active and threaten Iraq's remote regions, where the government is a rare sight. Civilian centers like Baghdad may be secure, but as long as the provinces are at risk, the seeds that allowed the Islamic State to take root will remain.

<u>"Trump admin finds loophole to advance Saudi arms sale"</u>, In a tweet published late on Friday afternoon – ahead of a holiday weekend – Secretary of State Mike Pompeo complained that the administration didn't have a choice. "We presented some of these sales almost 18 months ago to Congress," the Kansas Republican argued, "but it has failed to act."

<u>"Turkey Signals Delay in Russia Missile Order Opposed by U.S."</u>, Akar didn't say whether the delay he expected was due to technical reasons or aimed at postponing a run-in with the U.S. He said Turkey would complete its evaluation of the latest U.S. proposal to sell its Patriot air-defense system by October or November.

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"Indian Army deploys US-, Italy-trained snipers with deadly new rifles along LoC", Elite units of the Indian Army, equipped with deadly new sniper rifles, have been deployed along the Line of Control with Pakistan after special training from American and Italian experts.

"Australian pilots hit with lasers during Indo-Pacific exercise", Some helicopter pilots had lasers pointed at them from passing fishing vessels, temporarily grounding them for precautionary medical reasons. Was this startled fishermen reacting to the unexpected? Or was it the sort of coordinated harassment more suggestive of China's maritime militia? It's hard to say for sure, but similar incidents have occurred in the western Pacific.

"Can Russian, Turkish military-technical cooperation go beyond S-400 production?", Thus, if the already-signed contract on the S-400, agreed upon in an extremely short time and based on personal arrangements between Putin and Erdogan, includes so many grey areas, no conditions for actual co-production of the S-500 currently exist. Let alone, it's not clear how the Russian-Turkish bilateral relationship transforms in five to seven years, and how it may change the course of military cooperation between the two countries.

"Defense Ministry goes on the road to sell safety of Aegis Ashore", The decision to deploy the U.S.-made Aegis Ashore system was also the Japanese government's appeasement of U.S. President Donald Trump, who has championed a "Buy American" policy.

"Is the United States about to ramp up its Indo-Pacific strategy to contain China?", The strategy is mainly aimed at curbing Beijing's growing clout in the South China Sea and the Indian Ocean, and a change in the approach was signaled last month when a senior US defence official said Shanahan would explain the Indo-Pacific's role as a "priority theatre".

"900 landmines detonated in Qasr al Yahud on the Jordan River", After more than a week of preparation, sappers detonated a line of anti-tank mines with a single explosion that sent dust dozens of meters into the air. There are approximately 6,500 landmines in the Land of the Monasteries, and this 900-mine explosion was the biggest single detonation since demining work began at the site over a year ago.

<u>"US sanctions threaten to sink China at sea"</u>, This week, US Defense Secretary Patrick Shanahan is expected to announce a new Indo-Pacific Strategy at the Shangri-La Dialogue in Singapore, the world's premiere gathering of defense officials and experts.

<u>"Exporting the Gulf Crisis"</u>, Understanding this story is key to understanding the true fallout of the crisis, which isn't on the Arabian peninsula. War has not broken out among Gulf nations, but the feuding sides have taken their fight to more distant battlefields — mostly throughout the greater Middle East and on the Horn of Africa.

"US airstrikes may be spurring more Shabaab attacks", The meeting also highlighted differing views on the part of the United States and Somalia in regard to UN-backed restrictions on arms imports by the Somali government.

<u>"S-400 purchase could redefine Turkey's geostrategic role"</u>, The impasse leaves Erdogan with these two choices. If he does choose to ignore US threats and use his opposition to the Americans as a populist tool to ride the wave of nationalism ahead of local elections in Istanbul in June, it will be clear that Turkey's geostrategic role has been radically redefined. And with the United States' lack of patience, this could indeed happen very quickly.

"US sends LoA to India for 24 MH-60R Seahawk maritime helicopters for the navy", The US Government has formally sent the expected Letter of Agreement (LoA) for 24 MH-60R Seahawk maritime helicopters, to the Indian Government earlier this week. In view of China's expansion of its presence in the India Ocean, the helicopter deal estimated at around \$2.6 billion, will help in boosting the Indian Navy's anti-surface and anti-submarine warfare operations.

<u>"SALES TAKING OFF: International Market for F-35 Heats Up"</u>, Twelve countries have committed to orders of the F-35 joint strike fighter either as formal partner nations or through foreign military sales. As production of the fifth-generation systems ramp up, the joint program office and manufacturer Lockheed Martin are looking to expand their global footprint even further.

"Rare meeting between Taiwanese, US security officials angers Beijing", China responded angrily on Monday as Taiwan confirmed the first meeting in more than four decades between senior US and Taiwanese security officials.

<u>"Jordanian armoured vehicles spotted in Libya"</u>, It appears that Jordan has delivered an unknown number of Mbombe 6×6 armoured vehicles to forces in Libya allied to Khalifa Haftar's Libyan National Army (LNA) along with Jordanian-manufactured Al-Mared 8×8 vehicles.

"Poland plans to buy 32 F-35 fighter jets", Defence minister Mariusz Blaszczak said on Tuesday that Poland had sent a letter to the US requesting a quotation in connection with the purchase of 32 F-35As, as well as a logistics and training package.

<u>"Exclusive — Pompeo: \$8B Arms Sales to Middle East Allies 'Appropriate and Necessary'"</u>, The arms sales would help partners ensure that important sea lanes remain open, and that crude oil is delivered at prices that keep American businesses growing and successful, he said.

"Egyptian security forces commit war crimes in Sinai: HRW", Egyptian security forces have committed widespread abuses against civilians in restive northern Sinai peninsula, some of which amount to war crimes, Human Rights Watch (HRW) said on Tuesday, urging other nations to halt military assistance.

Matthew Marquis

Office of Congressional & Public Affairs Bureau of Political-Military Affairs (PM/CPA) U.S. Department of State

Phone: 202.647.6968

e-mail: <u>MarquisMR@state.gov</u> Web: <u>www.state.gov/t/pm / Twitter: @StateDeptPM</u>

Stay connected with *State.gov*:



Official

Case 2:20-cv-00111-RAJ Document 106-13 Filed 09/23/20 Page 199 of 378

Message

From: Dorosin, Joshua L [DorosinJL@state.gov]

Sent: 6/7/2019 3:52:25 PM

To: Wall, Amanda J [WallAJ@state.gov]

Subject: FW: AM L to D -- Prospective Agenda Processing

Attachments: L to D AM on Spring 2019 Unified Agenda 06-07-2019.docx; Tab 4 - Delegation of Authority 401.pdf; Tab 2 -- Rules on

the Spring 2019 Agenda.xlsx; Tab 3 -- Menendez Letter on Hold on CAT I-III Transfer.pdf; Tab 1 - Preamble to the

Agenda Spring 2019.pdf

Amanda – Let's discuss this before sending in to Marik. Best, Josh

Official

UNCLASSIFIED

From: Johnson, Clifton M < Johnson CM5@state.gov>

Sent: Friday, June 07, 2019 11:40 AM

To: Dorosin, Joshua L <DorosinJL@state.gov> **Cc:** Kottmyer, Alice M <KottmyerAM@state.gov>

Subject: FW: AM L to D -- Prospective Agenda Processing

Josh,

FYI - This package is finally fully cleared.

I've asked Alice to go ahead and forward the cleared package to Amanda for Marik to sign out, with a cc to both of us. Best, Cliff

Official

UNCLASSIFIED

From: Kottmyer, Alice M < Kottmyer AM@state.gov>

Sent: Friday, June 07, 2019 11:11 AM

To: Johnson, Clifton M < <u>JohnsonCM5@state.gov</u>>
Cc: Kottmyer, Alice M < <u>KottmyerAM@state.gov</u>>
Subject: AM L to D -- Prospective Agenda Processing

Cliff,

This is the current cleared package. Should I just send it to Robbie or somebody in the FO?

Thanks,

Alice Kottmyer

Attorney-Adviser | Office of Management Department of State

202-647-2199 | *BB* |

kottmyeram@state.gov

Official - SBU

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JAMES E. RISCH, IDARO, CHAIRMAN

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JEFF MERKLEY, OREGON
CORY A. SOOVER, NEW JERSEY

United States Senate

COMMITTEE ON FOREIGN RELATIONS
WASHINGTON, DC 20510-6225

February 22, 2019

The Honorable Mike Pompeo Secretary of State U.S. Department of State 2201 C Street, N.W. Washington, D.C. 20520

Dear Secretary Pompeo:

On February 4, 2019, I received a congressional notification from the Department for a proposal to transfer responsibility for the export control of firearms and ammunition from the United States Munitions list (USML) to the Commerce Control List (CCL). I write to inform you that I am placing a hold on the congressional notification, pursuant to the authority of Section 38(f) of the Arms Export Control Act (AECA).

I am deeply concerned about this proposed transfer. As you no doubt are aware, firearms and ammunition – especially those derived from military models and widely used by military and security services – are uniquely dangerous. They are easily modified, diverted, and proliferated, and are the primary means of injury, death, and destruction in civil and military conflicts throughout the world. As such, they should be subject to more, not less, rigorous export controls and oversight.

Combat rifles, including those commonly known as "sniper rifles," should not be removed from the USML, nor should rifles of any type that are U.S. military-standard 5.56 (and especially .50 caliber). Semi-automatic firearms should also not be removed, and neither should related equipment, ammunition, or associated manufacturing equipment, technology, or technical data.

Consequently, my hold will remain in place until such time as the issues identified below are sufficiently addressed.

1) Removal of Firearms Exports from Congressional Information and Review
The AECA enables congressional review of exports of lethal weapons to ensure that they comport with U.S. foreign policy interests. Congress took action in 2002 to ensure that the sale and export of these weapons would receive stringent oversight, including by amending the AECA to set a lower reporting threshold (from \$14 million to \$1 million) specifically for firearms on the USML. Moving such firearms from the USML to the CCL would directly

contradict congressional intent and effectively eliminate congressional oversight and potential disapproval of exports of these weapons. Congressional oversight must be retained.

2) Proliferation of 3D Gun Printing Technical Information

There is a serious risk that this transfer will open the floodgates of information for the 3D printing of nearly-undetectable firearms and components by foreign persons and terrorists that intend to harm U.S. citizens and interests. The Department of Commerce claims that it cannot, by its own regulations, prevent the publication, including on the Internet for global consumption, of technical information and blueprint files that would enable this 3D production, if such information has once been published, even illegally. This is outrageous and simply unacceptable given the dangers it poses to U.S. citizens and interests.

Moreover, it may also be at variance with recent law. Section 1758 of the Export Control Reform Act of 2018 authorizes the Secretary of Commerce to control "emerging and foundational technologies" that (A) are essential to the national security of the United States; and (B) are not critical technologies described in clauses (i) through (v) of section 721(a)(6)(A) of the Defense Production Act of 1950. 3D printing has been identified by this Administration as an emerging technology of concern, and the Department of Commerce itself used 3D printing as an example of "emerging technology" in its November 19, 2018 Federal Register notice seeking public comment on what constitutes emerging technologies pursuant to this new statutory charge. Then-Secretary of Defense Mattis twice mentioned the challenges of 3D printing in congressional testimony, and Director of National Intelligence Coats, in his 2018 Worldwide Threat Assessment of the U.S. Intelligence Community, stated that, "[a]dvances in manufacturing, particularly the development of 3D printing, almost certainly will become even more accessible to a variety of state and non-state actors and be used in ways contrary to our interests."

It would seem axiomatic that the capability to 3D-print lethal weaponry that cannot easily or reliably be detected by metal detectors at airports, schools, governmental or other facilities (including the U.S. Capitol and the Department of State) would qualify as an emerging technology in need of regulatory control. Yet, the Commerce Department has told my staff that the interagency process to identify emerging and foundational technologies to be controlled has not been completed, and is unlikely to be completed for months. By proceeding with the transfer of firearms, including 3D printing technical information, to Commerce, the Administration is acting recklessly and endangering innocent lives. It should go without saying that we collectively need to understand the threat and have a plan to address this issue before making the regulatory change.

Moreover, the Department of Commerce would seem to have adequate additional regulatory authority to control 3D gun printing information, at least temporarily. Commerce can control any item for foreign policy reasons under the miscellaneous category of 0Y521, according to a final rule issued by Commerce in 2012. Preventing foreign terrorists and thugs from acquiring

the means to print undetectable guns to use against U.S. citizens is a sufficient foreign policy justification to control this technology from public release.

Ultimately, the specific provision of the Export Administration Regulations is cited as preventing Commerce from controlling the publication of 3D Printed guns in the longer term needs to be rewritten to permit this control. Until that occurs, or until Commerce determines that such technical information can and will be controlled, this technical information cannot and should not be transferred from USML to the CCL.

I look forward to your prompt response to my concerns.

Sincerely,

Robert Mehendez

Ranking Member

CC: The Honorable Wilbur Ross, U.S. Secretary of Commerce

Case 2:20-cv-00111-RAJ Document 106-13 Filed 09/23/20 Page 204 of 378

Message

From: Kottmyer, Alice M [KottmyerAM@state.gov]

Sent: 6/7/2019 4:07:00 PM

To: Wall, Amanda J [WallAJ@state.gov]

CC: Johnson, Clifton M [JohnsonCM5@state.gov]; Dorosin, Joshua L [DorosinJL@state.gov]; Kottmyer, Alice M

[KottmyerAM@state.gov]

Subject: AM L to D -- Prospective Agenda Processing

Attachments: Tab 4 - Delegation of Authority 401.pdf; Tab 2 -- Rules on the Spring 2019 Agenda.xlsx; Tab 3 -- Menendez Letter on

Hold on CAT I-III Transfer.pdf; Tab 1 - Preamble to the Agenda Spring 2019.pdf; L to D AM on Spring 2019 Unified

Agenda 06-07-2019.docx

Hi Amanda,

This package, from L to D, is fully cleared, and is ready to be signed out by L.

Josh and Cliff discussed this morning. I have made the edits to the Action Memo requested by them.

Please let me know if you have questions.

Thanks much

Alice Kottmyer

Attorney-Adviser | Office of Management Department of State 202-647-2199 | BB kottmyeram@state.gov

Official

Case 2:20-cv-00111-RAJ Document 106-13 Filed 09/23/20 Page 205 of 378

JAMES E. RISCH, IDARO, CHAIRMAN

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JEFF MERKLEY, OREGON
CORY A. SOOVER, NEW JERSEY

United States Senate

COMMITTEE ON FOREIGN RELATIONS
WASHINGTON, DC 20510-6225

February 22, 2019

The Honorable Mike Pompeo Secretary of State U.S. Department of State 2201 C Street, N.W. Washington, D.C. 20520

Dear Secretary Pompeo:

On February 4, 2019, I received a congressional notification from the Department for a proposal to transfer responsibility for the export control of firearms and ammunition from the United States Munitions list (USML) to the Commerce Control List (CCL). I write to inform you that I am placing a hold on the congressional notification, pursuant to the authority of Section 38(f) of the Arms Export Control Act (AECA).

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contradict congressional intent and effectively eliminate congressional oversight and potential disapproval of exports of these weapons. Congressional oversight must be retained.

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Moreover, it may also be at variance with recent law. Section 1758 of the Export Control Reform Act of 2018 authorizes the Secretary of Commerce to control "emerging and foundational technologies" that (A) are essential to the national security of the United States; and (B) are not critical technologies described in clauses (i) through (v) of section 721(a)(6)(A) of the Defense Production Act of 1950. 3D printing has been identified by this Administration as an emerging technology of concern, and the Department of Commerce itself used 3D printing as an example of "emerging technology" in its November 19, 2018 Federal Register notice seeking public comment on what constitutes emerging technologies pursuant to this new statutory charge. Then-Secretary of Defense Mattis twice mentioned the challenges of 3D printing in congressional testimony, and Director of National Intelligence Coats, in his 2018 Worldwide Threat Assessment of the U.S. Intelligence Community, stated that, "[a]dvances in manufacturing, particularly the development of 3D printing, almost certainly will become even more accessible to a variety of state and non-state actors and be used in ways contrary to our interests."

It would seem axiomatic that the capability to 3D-print lethal weaponry that cannot easily or reliably be detected by metal detectors at airports, schools, governmental or other facilities (including the U.S. Capitol and the Department of State) would qualify as an emerging technology in need of regulatory control. Yet, the Commerce Department has told my staff that the interagency process to identify emerging and foundational technologies to be controlled has not been completed, and is unlikely to be completed for months. By proceeding with the transfer of firearms, including 3D printing technical information, to Commerce, the Administration is acting recklessly and endangering innocent lives. It should go without saying that we collectively need to understand the threat and have a plan to address this issue before making the regulatory change.

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I look forward to your prompt response to my concerns.

Sincerely,

Robert Mehendez

Ranking Member

CC: The Honorable Wilbur Ross, U.S. Secretary of Commerce

From: Marquis, Matthew R [MarquisMR@state.gov]

Sent: 6/14/2019 12:16:57 PM

To: PM-DTCP-Tasking-DL [PM-DTCP-Tasking-DL@state.gov]; Legal-PM-DL [Legal-PM-DL@state.gov]

CC: PM-CPA [PM-CPA@state.gov]; Miller, Michael F [Millermf@state.gov]; Darrach, Tamara A [DarrachTA@state.gov]

Subject: CPA Media Monitoring: Newsweek: TWO MAJOR GUN CONTROL BILLS UNVEILED BY CONGRESSIONAL DEMOCRATS



TWO MAJOR GUN CONTROL BILLS UNVEILED BY CONGRESSIONAL DEMOCRATS By Asher Stockler

13 June 2019

Two potentially sweeping gun violence prevention bills were introduced to Congress Thursday. If passed, the legislation would overhaul screening requirements for prospective gun buyers and prohibit the dissemination of digital files or code that could be used to 3D-print firearms.

The first bill, the Handgun Purchaser Licensing Act, would incentivize state and local governments to implement a requirement that would-be gun owners first obtain a license before making a purchase. The 2019 introduction of this bill in the House by Jamie Raskin and in the Senate by Chris Van Hollen — both Democrats — followed a Johns Hopkins Center for Gun Policy and Research study which found that purchaser licensing is the only effective method of screening potential gun buyers.

"Handgun licensing saves lives for the same reason drivers' licensing saves lives," Raskin said in a press release. "It takes the dangerous people out of our way as much as possible."

Van Hollen said in a press release that "we should be doing everything we can to encourage states to put these [permitting] programs in place," adding that licensing requirements to buy a handgun should be a "no-brainer."

There are several ways in which licensing requirements have been shown to reduce gun violence. The most immediate benefit results from the bureaucratic nature of licenses themselves.

In order to apply for and receive a license, a prospective gun owner must wait for a longer period of time than they would have to without the licensing requirement, if they are a first-time purchaser. This eliminates the cohort of gun purchasers who impulsively seek to carry out a self-destructive or other harmful act with a firearm.

Gun licenses also often require fingerprint submissions or gun safety education, potentially weeding out less responsible individuals from owning firearms.

The Handgun Purchaser Licensing Act would include provisions for background checks, criminal history checks and a five-year renewal period, among others.

Thursday's second piece of legislation reintroduced a proposal to stem the publication of digital files or code that could be used, in conjunction with a 3D printer, to manufacture guns at home, out of the oversight of federal firearms manufacturing rules.

Congressman Ted Deutch and Senator Ed Markey unveiled the 3D Printed Gun Safety Act for the current session of Congress. The bill, if passed, would outlaw the publication of digital instructions or code that would be used to print a firearm or complete a partially finished weapon.

The State Department controversially settled a lawsuit last July with digital technology non-profit Defense Distributed, allowing the organization to go ahead with plans to post online 3D printing instructions for firearms. The settlement was blocked by a court order, but the non-profit was able to use a technical workaround to begin distributing digital copies of firearms blueprints.

3D-printed weapons make up a class of firearms informally known as "ghost guns": often undetectable, untraceable weapons that can easily leak into illicit pipelines. They also appear to take advantage of an oversight in federal gun control law that otherwise prohibits the manufacture of firearms for sale without a license from the Bureau of Alcohol, Tobacco, Firearms and Explosives.

Because the product being sold is a digital precursor to a weapon, and not a weapon itself, 3D printing instructions are able to evade laws regulating the manufacture and sale of guns. Much like sharing the instructions for synthesizing an illegal drug is not the same as actually making that drug.

The proposals are unlikely to advance out of Congress, where a Republican-controlled Senate would need to give its approval. But many 2020 Democratic candidates have taken on the mantle of gun reform as a signature campaign issue and are using their increasingly prominent platforms to consolidate public favor behind bills like the two introduced on Thursday.

Link: https://www.newsweek.com/two-major-gun-control-bills-unveiled-congressional-democrats-1443924

Matthew Marquis

Office of Congressional & Public Affairs Bureau of Political-Military Affairs (PM/CPA) U.S. Department of State

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From: Marquis, Matthew R [MarquisMR@state.gov]

Sent: 6/18/2019 7:00:34 PM

To: PM-DTCP-Tasking-DL [PM-DTCP-Tasking-DL@state.gov]; Legal-PM-DL [Legal-PM-DL@state.gov]

CC: PM-CPA [PM-CPA@state.gov]; Miller, Michael F [Millermf@state.gov]

Subject: CPA Media Monitoring: 13 News Now: Sen. Kaine introduces bill to ban distribution of 3D gun blueprints

Attachments: FINAL 3D Printed Gun Safety Act 116th.pdf



Sen. Kaine introduces bill to ban distribution of 3D gun blueprints By 13 News Now 18 June 2019

CPA Note: Text of bill attached as .pdf

U.S. Senator Tim Kaine joined Senators Edward J. Markey and Bob Menendez to introduce legislation that would prohibit the online distribution of blueprints and instructions that allow for the 3D printing of firearms.

The 3D Printed Gun Safety Act comes after Kaine pushed the Senate and Virginia's General Assembly to pass gun safety legislation in the aftermath of the Virginia Beach Municipal Center shooting.

"Our nation has suffered too many gun violence tragedies. We must not allow 3D printed guns to present an additional danger to our public safety and law enforcement," said Kaine. "These guns are untraceable and largely undetectable, and Congress must address this threat before lives are lost."

3D printing allows individuals to make firearms out of plastic. The guns could be able to evade detection by metal detectors at security checkpoints, increasing the risk that a firearm will be used to perpetrate violence on an airplane or other areas where people congregate.

These firearms are also untraceable because they don't have a serial number for law enforcement to reference. If the instructions for 3D printing firearms and firearm parts are available online, people intending to commit gun crimes may create untraceable firearms in order to avoid accountability for these crimes.

The 3D Printed Gun Safety Act will make it illegal to distribute online digital files that can automatically program a 3D printer to produce or complete the manufacture of a firearm.

Link: https://www.13newsnow.com/article/news/local/virginia/sen-kaine-introduces-bill-to-ban-distribution-of-3d-gun-blueprints/291-1d99658e-087a-4ded-8413-31d26a0b9622

Matthew Marquis

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116TH CONGRESS	\boldsymbol{C}	
1st Session		
	V.	

To amend chapter 44 of title 18, United States Code, to prohibit the distribution of 3D printer plans for the printing of firearms, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. Markey (for himself, Mr. Menendez, Mr. Brown, Mr. Murphy, Ms. Hirono, Mr. Blumenthal, Ms. Harris, Mr. Van Hollen, Mrs. Feinstein, Ms. Duckworth, Mr. Sanders, Mr. Durbin, Mr. Reed, Mr. Merkley, Mrs. Murray, Ms. Baldwin, Mr. Leahy, Ms. Smith, Ms. Klobuchar, Mr. Kaine, Mr. Wyden, Mr. Cardin, Mr. Coons, Mr. Schatz, Mr. Booker, Mr. Casey, and Ms. Rosen) introduced the following bill; which was read twice and referred to the Committee on

A BILL

To amend chapter 44 of title 18, United States Code, to prohibit the distribution of 3D printer plans for the printing of firearms, and for other purposes.

- 1 Be it enacted by the Senate and House of Representa-
- 2 tives of the United States of America in Congress assembled,
- 3 SECTION 1. SHORT TITLE.
- 4 This Act may be cited as the "3D Printed Gun Safety
- 5 Act of 2019".

1 SEC. 2. FINDINGS.

	C	0	
3	(1) Three	e dimensional, or	"3D" printing, in-
4	volves the pro	gramming of a 3	BD printing machine

Congress finds the following:

5 with a computer file that provides the schematics for

6 the item to be printed.

- (2) Recent technological developments have allowed for the 3D printing of firearms and firearm parts, including parts made out of plastic, by unlicensed individuals in possession of relatively inexpensive 3D printers.
- (3) Because 3D printing allows individuals to make their own firearms out of plastic, they may be able to evade detection by metal detectors at security checkpoints, increasing the risk that a firearm will be used to perpetrate violence on an airplane or other area where people congregate.
- (4) The availability of online schematics for the 3D printing of firearms and firearm parts increases the risk that dangerous people, including felons, domestic abusers, and other people prohibited from possessing firearms under Federal law, will obtain a firearm through 3D printing.
- (5) On June 7, 2013, an assailant used a gun he had constructed by himself to kill his father, brother, and 3 other people at Santa Monica College

in California. The person had failed a background check when he tried to purchase a gun from a licensed gun dealer. The gun he used was made from an unfinished AR–15-style receiver, similar to a receiver that can now be made with a 3D printer.

- (6) Firearms tracing is a powerful investigative tool. When law enforcement agencies recover firearms that have been used in crimes, the agencies work with the Bureau of Alcohol, Tobacco, Firearms, and Explosives to trace these firearms to their first retail purchaser. The agencies can use that information to investigate and solve the crimes. In 2017 alone, the Bureau of Alcohol, Tobacco, Firearms, and Explosives conducted 408,000 traces.
- (7) Firearms tracing depends on the ability to identify firearms based on their serial number. Traditionally, when a firearm is manufactured domestically or imported from abroad, it is engraved with a serial number and markings that identify the manufacturer or importer, make, model, and caliber, and are unique to the firearm. Firearms made by unlicensed individuals with 3D printers, however, do not contain genuine serial numbers.
- (8) Criminals seek firearms without serial numbers because they cannot be traced. In July 2018,

the Los Angeles Police Department completed a 6-month-long investigation that resulted in the seizure of 45 firearms, some of which had been assembled without serial numbers in order to be untraceable. If the schematics for 3D printing firearms and firearm parts are available online, people intending to commit gun crimes may create similarly untraceable firearms in order to avoid accountability for these crimes.

- (9) Interstate gun trafficking, including the trafficking of untraceable firearms, interferes with lawful commerce in firearms and significantly contributes to gun crime. Of the 211,384 firearms traced by the Bureau of Alcohol, Tobacco, Firearms, and Explosives in 2016, 60,936 of those firearms were originally sold by a licensed firearms dealer in a State other than the State where they were recovered. These guns made up 28.8 percent of all firearm recoveries in 2016.
- (10) The proliferation of 3D-printed firearms threatens to undermine the entire Federal firearms regulatory scheme and to endanger public safety and national security. By making illegal the distribution of certain computer code that can be used automatically to program 3D printers and create firearms—

5

- 1 the only means of combating this unique threat—
- 2 Congress seeks not to regulate the rights of com-
- 3 puter programmers under the First Amendment to
- 4 the Constitution of the United States, but rather to
- 5 curb the pernicious effects of untraceable—and po-
- 6 tentially undetectable—firearms.

7 SEC. 3. PROHIBITION.

- 8 Section 922 of title 18, United States Code, is
- 9 amended by adding at the end the following:
- 10 "(aa) It shall be unlawful for any person to inten-
- 11 tionally distribute, over the Internet or by means of the
- 12 World Wide Web, digital instructions in the form of Com-
- 13 puter Aided Design files or other code that can automati-
- 14 cally program a 3-dimensional printer or similar device to
- 15 produce a firearm or complete a firearm from an unfin-
- 16 ished frame or receiver.".

From: Marquis, Matthew R [MarquisMR@state.gov]

Sent: 6/18/2019 8:47:54 PM

To: Windecker, Melissa A [WindeckerMA@state.gov]; PM-Strategy [PM-Strategy@state.gov]

CC: PM-CPA [PM-CPA@state.gov]; Brown, Stanley L [BrownSL@state.gov]; O'Keefe, Kevin P [OKeefeKP@state.gov];

Miller, Michael F [Millermf@state.gov]; Mak, Daniella [MakD@state.gov]; Dudding, Maria [DuddingM@state.gov];

Nute, Kathryn M [NuteKM3@state.gov]; McVerry, James [James.Mcverry.ctr@dla.mil]; Phalen, Susan A [PhalenSA@state.gov]; PM-Directors [PM-Directors@state.gov]; PM-Deputy-Directors [PM-Deputy-Directors [PM-Deputy-Directors

Directors@state.gov]; Cooper, R. Clarke [CooperRC@state.gov]

Subject: CPA MEDIA MONITORING: 18 June 2019



Alerts for 18 June 2019

"Climate as a risk factor for armed conflict", These experts agree that climate has affected organized armed conflict within countries. However, other drivers, such as low socioeconomic development and low capabilities of the state, are judged to be substantially more influential, and the mechanisms of climate—conflict linkages remain a key uncertainty. Intensifying climate change is estimated to increase future risks of conflict.

"Bolton moves to promote loyalists at the National Security Council", Anthony Ruggiero, who joined the NSC last year to work on Asia, will take the helm of the WMD bureau as senior director.

"Sen. Kaine introduces bill to ban distribution of 3D gun blueprints", U.S. Senator Tim Kaine joined Senators Edward J. Markey and Bob Menendez to introduce legislation that would prohibit the online distribution of blueprints and instructions that allow for the 3D printing of firearms.

"Wall Street Journal sows uncertainty over US arms deal to Taiwan", The report cites three anonymous sources within the White House that say U.S. officials are worried that Xi Jinping will use the arms deal as a pretext to rebuff the U.S. president's attempt to negotiate on trade.

"U.S. Congress approves security assistance package for Ukraine for 2019 through Pentagon worth \$250 mln", The information says that the relevant structures of the U.S. Department of Defense have already begun the procedure for concluding contracts for the supply of equipment and the provision of services for the defense sector of Ukraine at the expense of the budget for 2019.

"US lines up partners to protect oil tankers after Gulf attacks", The vice chairman of the Joint Chiefs of Staff, Gen. Paul Selva, said today that the Pentagon and State Department had approved plans to reach out to China, Japan, Singapore, South Korea, Indonesia and other oil importers about a possible response to defend tanker traffic. He did not offer any details about what those nations may be asked to do.

"Pompeo at Centcom: 'Trump does not want war' with Iran", He also said there were issues with Iran of beyond the attacks on two oil tankers that he has blamed on Tehran, saying there have been other recent attacks, some of which were thwarted, in recent weeks.

<u>"A-29 Super Tucano Reportedly Seen in Turkmenistan"</u>, Details are not presently confirmed. It was not possible to identify serial numbers or Turkmen Air Force markings on the aircraft from the footage. Turkmenistan has previously hosted foreign aircraft for review as the country considered procurement.

"Menendez Officially Starts Process for Senate to Block Trump Admin's Proposed Arms Sales to Saudi Arabia and UAE", U.S. Senator Bob Menendez (D-N.J.), Ranking Member of the Senate Foreign Relations

Case 2:20-cv-00111-RAJ Document 106-13 Filed 09/23/20 Page 218 of 378

Committee, this morning spoke on the Senate Floor to officially start the process of consideration for the Senate to use privileged authorities to block the Trump Administration's unprecedented attempt at approving over \$8 billion in arms sales to Saudi and UAE without Congressional consent.

<u>"Canadian soldier dies, three troops hurt during drills in Bulgaria"</u>, A source familiar with the incident said the casualties were paratroopers who were jumping early Tuesday morning, in the dark and from a low height. The source said two Americans and a Canadian solder were injured.

"EXCLUSIVE-Pompeo blocks inclusion of Saudis on U.S. child soldiers list-sources", The experts' recommendation faced resistance from some other State Department officials who, according to three of the sources, argued that it was not clear whether the Sudanese forces were under the control of Sudanese officers or directed by the Saudi-led coalition.

"Pompeo Might Have The Perfect Carrot To Dangle In Front Of Modi's Mouth", The US is planning to include India on its International Traffic in Arms Regulations (ITAR) list in order to place it at par with its NATO allies, "Israel", and a few others for the export of high-level military technologies, which could be the perfect carrot for Pompeo to dangle in front of Modi's mouth during his visit to the South Asian state next week in order to get him to ditch Russia, and it might actually end up being part of the "surprise" that he recently hinted he has in store for his hosts.

"Senators Force Vote on Saudi Arms Sale, Tying Up Floor Time", Each resolution is entitled to 10 hours of debate, potentially tying up Senate business for 220 hours, according to Menendez

"Japan looks to boost naval capabilities in face of emerging China submarine threat", "From advanced patrol aircraft to the procurement of RQ-4 Global Hawk – an aerial drone – Japan is increasingly investing in maintaining its premiere ASW capabilities," Paul Hornung said.

<u>"Explaining the Poverty of German's Strategic Debate"</u>, After spending the last seven months in this course surrounded by German and other NATO partners, I am impressed and worried: Impressed by the quality of the allies as professional soldiers and the effort applied at a military level to solidifying NATO defense, and worried about the future trajectory of a defense alliance where the people most invested in its success seem to be the ones in uniform, who after all do not decide the direction of a political entity.

<u>"Lexington man and semiconductor company indicted for theft of trade secrets"</u>, It is alleged that since leaving ADI, from August 2017 to June 2019, Yu has been working at a cleared defense contractor while simultaneously operating Tricon and selling parts that are identical to, or substantially similar, to ADI products and which incorporate ADI's stolen trade secrets. Yu has also allegedly used Tricon to illegally export several parts to Spain by concealing both his name and the export control classification number of the parts being exported on the shipping documents.

<u>"U.S. to permanently end foreign aid for Guatemala, Honduras, El Salvador"</u>, The purpose of the U.S. foreign assistance targeted by Trump is to address the "root causes" of migration through governance reforms, security assistance and economic development, according to Axios Expert Voices contributor Erol Yayboke. Cutting off that aid could exacerbate conditions in the Northern Triangle and lead to even more migration.

"Leonardo Unveils Drone Free Of US Export Control Restrictions", The ITAR states if a foreign-made product has more than 10% US made components, then State Department approval is mandatory for its export. In a case last year, MBDA could not sell its Scalp missiles to Egypt as part of the Rafale fighter jet contract as the missile came under the ITAR restrictions. The approval was received after lobbying at the highest level by France and led to delays in contract execution.

Case 2:20-cv-00111-RAJ Document 106-13 Filed 09/23/20 Page 219 of 378

<u>"Trump continues to kowtow to MBS. Congress has a chance to say no."</u>, The Senate is expected to vote this week on a number of resolutions disapproving the arms sales, and similar legislation is pending in the House. The measures have bipartisan support: Senior Republicans have been infuriated by Mr. Trump's disregard for congressional authority and for his indiscriminate support for the Saudi regime despite its record of committing likely war crimes in Yemen while torturing and killing domestic opponents.

<u>"ReCAAP ISC: Warning on Abduction of Crew Incident off Semporna, Sabah"</u>, On 18 June 2019 at 0245 hours, an abduction of crew incident occurred off Semporna, Sabah on board two Malaysian Flag fishing boats. The two fishing boats accordingly were in Lahad Datu's Tambisan waters and heading towards Semporna when they were hijacked by gunmen, believed to be heavily armed, in speedboats.

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Matthew Marquis

Office of Congressional & Public Affairs Bureau of Political-Military Affairs (PM/CPA) U.S. Department of State

Phone: 202,647,6968

e-mail: MarquisMR@state.gov | Web: PM Homepage |Twitter: @StateDeptPM

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Official UNCLASSIFIED

From: Koelling, Richard W [KoellingRW@state.gov]

Sent: 6/18/2019 9:12:19 PM

To: PM-DTCP-RAA [PM-DTCP-RAA@state.gov]
Subject: Fwd: CPA MEDIA MONITORING: 18 June 2019

Today's offering.
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From: Marquis, Matthew R

Sent: Tuesday, June 18, 2019 4:47:54 PM **To:** Windecker, Melissa A; PM-Strategy

Cc: PM-CPA; Brown, Stanley L; O'Keefe, Kevin P; Miller, Michael F; Mak, Daniella; Dudding, Maria; Nute, Kathryn M;

McVerry, James; Phalen, Susan A; PM-Directors; PM-Deputy-Directors; Cooper, R. Clarke

Subject: CPA MEDIA MONITORING: 18 June 2019



Alerts for 18 June 2019

<u>"Climate as a risk factor for armed conflict"</u>, These experts agree that climate has affected organized armed conflict within countries. However, other drivers, such as low socioeconomic development and low capabilities of the state, are judged to be substantially more influential, and the mechanisms of climate—conflict linkages remain a key uncertainty. Intensifying climate change is estimated to increase future risks of conflict.

"Bolton moves to promote loyalists at the National Security Council", Anthony Ruggiero, who joined the NSC last year to work on Asia, will take the helm of the WMD bureau as senior director.

<u>"Sen. Kaine introduces bill to ban distribution of 3D gun blueprints"</u>, U.S. Senator Tim Kaine joined Senators Edward J. Markey and Bob Menendez to introduce legislation that would prohibit the online distribution of blueprints and instructions that allow for the 3D printing of firearms.

"Wall Street Journal sows uncertainty over US arms deal to Taiwan", The report cites three anonymous sources within the White House that say U.S. officials are worried that Xi Jinping will use the arms deal as a pretext to rebuff the U.S. president's attempt to negotiate on trade.

"U.S. Congress approves security assistance package for Ukraine for 2019 through Pentagon worth \$250 mln", The information says that the relevant structures of the U.S. Department of Defense have already begun the procedure for concluding contracts for the supply of equipment and the provision of services for the defense sector of Ukraine at the expense of the budget for 2019.

<u>"US lines up partners to protect oil tankers after Gulf attacks"</u>, The vice chairman of the Joint Chiefs of Staff, Gen. Paul Selva, said today that the Pentagon and State Department had approved plans to reach out to China, Japan, Singapore, South Korea, Indonesia and other oil importers about a possible response to defend tanker traffic. He did not offer any details about what those nations may be asked to do.

"Pompeo at Centcom: 'Trump does not want war' with Iran", He also said there were issues with Iran of beyond the attacks on two oil tankers that he has blamed on Tehran, saying there have been other recent attacks, some of which were thwarted, in recent weeks.

- <u>"A-29 Super Tucano Reportedly Seen in Turkmenistan"</u>, Details are not presently confirmed. It was not possible to identify serial numbers or Turkmen Air Force markings on the aircraft from the footage. Turkmenistan has previously hosted foreign aircraft for review as the country considered procurement.
- "Menendez Officially Starts Process for Senate to Block Trump Admin's Proposed Arms Sales to Saudi Arabia and UAE", U.S. Senator Bob Menendez (D-N.J.), Ranking Member of the Senate Foreign Relations Committee, this morning spoke on the Senate Floor to officially start the process of consideration for the Senate to use privileged authorities to block the Trump Administration's unprecedented attempt at approving over \$8 billion in arms sales to Saudi and UAE without Congressional consent.
- "Canadian soldier dies, three troops hurt during drills in Bulgaria", A source familiar with the incident said the casualties were paratroopers who were jumping early Tuesday morning, in the dark and from a low height. The source said two Americans and a Canadian solder were injured.
- <u>"EXCLUSIVE-Pompeo blocks inclusion of Saudis on U.S. child soldiers list-sources"</u>, The experts' recommendation faced resistance from some other State Department officials who, according to three of the sources, argued that it was not clear whether the Sudanese forces were under the control of Sudanese officers or directed by the Saudi-led coalition.
- "Pompeo Might Have The Perfect Carrot To Dangle In Front Of Modi's Mouth", The US is planning to include India on its International Traffic in Arms Regulations (ITAR) list in order to place it at par with its NATO allies, "Israel", and a few others for the export of high-level military technologies, which could be the perfect carrot for Pompeo to dangle in front of Modi's mouth during his visit to the South Asian state next week in order to get him to ditch Russia, and it might actually end up being part of the "surprise" that he recently hinted he has in store for his hosts.
- "Senators Force Vote on Saudi Arms Sale, Tying Up Floor Time", Each resolution is entitled to 10 hours of debate, potentially tying up Senate business for 220 hours, according to Menendez
- "Japan looks to boost naval capabilities in face of emerging China submarine threat", "From advanced patrol aircraft to the procurement of RQ-4 Global Hawk an aerial drone Japan is increasingly investing in maintaining its premiere ASW capabilities," Paul Hornung said.
- <u>"Explaining the Poverty of German's Strategic Debate"</u>, After spending the last seven months in this course surrounded by German and other NATO partners, I am impressed and worried: Impressed by the quality of the allies as professional soldiers and the effort applied at a military level to solidifying NATO defense, and worried about the future trajectory of a defense alliance where the people most invested in its success seem to be the ones in uniform, who after all do not decide the direction of a political entity.
- "Lexington man and semiconductor company indicted for theft of trade secrets", It is alleged that since leaving ADI, from August 2017 to June 2019, Yu has been working at a cleared defense contractor while simultaneously operating Tricon and selling parts that are identical to, or substantially similar, to ADI products and which incorporate ADI's stolen trade secrets. Yu has also allegedly used Tricon to illegally export several parts to Spain by concealing both his name and the export control classification number of the parts being exported on the shipping documents.
- "U.S. to permanently end foreign aid for Guatemala, Honduras, El Salvador", The purpose of the U.S. foreign assistance targeted by Trump is to address the "root causes" of migration through governance reforms, security assistance and economic development, according to Axios Expert Voices contributor Erol Yayboke. Cutting off that aid could exacerbate conditions in the Northern Triangle and lead to even more migration.

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"Leonardo Unveils Drone Free Of US Export Control Restrictions", The ITAR states if a foreign-made product has more than 10% US made components, then State Department approval is mandatory for its export. In a case last year, MBDA could not sell its Scalp missiles to Egypt as part of the Rafale fighter jet contract as the missile came under the ITAR restrictions. The approval was received after lobbying at the highest level by France and led to delays in contract execution.

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Office of Congressional & Public Affairs Bureau of Political-Military Affairs (PM/CPA) U.S. Department of State

Phone: 202.647.6968

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From: Monjay, Robert [MonjayR@state.gov]

Sent: 7/1/2019 8:45:02 PM

To: Runyon, Dalton E [RunyonDE@state.gov]

Subject: Fwd: 3D printing Thesis **Attachments**: Rejan_Thesis_April2018.docx

This is a deep dive into 3D printing and export controls. You do not need to fully read it, but it is worth a skim as we start trying to get our hands around the problem.

Thanks Rob

Robert Monjay

Office: 202-663-2817 Mobile:

From: Rejan, Wendy A

Sent: Wednesday, March 28, 2018 8:04:46 PM

To: Monjay, Robert

Cc: Paul, Joshua M; Williams, Karen Lynn

Subject: 3D printing Thesis

Dear Rob,

Thank you very much for your assistance in informing my research on 3D printing and for helping me to think through many of the possible ideas in policy approach. I've attached a final draft of the thesis and would be happy to include any feedback if you have time to review. I've spoken with Merin Rajadurai in S/P about the research and he's also given me some valuable feedback and requests for additional items to include. The final version is due to NDU on April 9th. Thank you again for your assistance.

Sincerely,

Wendy

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Message

Monjay, Robert [MonjayR@state.gov] From:

7/11/2019 7:49:20 PM Sent:

Hart, Robert L [HartRL@state.gov] To:

FW: **PLEASE RESPOND- URGENT** Fall 2019 Unified Agenda Subject:

Attachments: Agenda.xlsx

Importance: High

Official - SBU UNCLASSIFIED

From: Kottmyer, Alice M <KottmyerAM@state.gov>

Sent: Thursday, July 11, 2019 10:36 AM

To: Foster, John A <FosterJA2@state.gov>; Monjay, Robert <MonjayR@state.gov>; Garcia, Mariel C

<GarciaMC3@state.gov>

Cc: Kottmyer, Alice M <KottmyerAM@state.gov>

Subject: **PLEASE RESPOND- URGENT** Fall 2019 Unified Agenda

Importance: High

Colleagues,



Please respond by COB tomorrow.

Thanks

Alice Kottmyer

Attorney-Adviser | Office of Management Office of the Legal Adviser | Department of State

202-647-2199 | *BB* | kottmyeram@state.gov

Official - SBU **UNCLASSIFIED**

From: Marquis, Matthew R [MarquisMR@state.gov]

Sent: 7/15/2019 2:01:19 PM

To: PM-DTCP-Tasking-DL [PM-DTCP-Tasking-DL@state.gov]

CC: PM-CPA [PM-CPA@state.gov]; Miller, Michael F [Millermf@state.gov]

Subject: CPA Media Monitoring: Guns.com: Dems Move to Block Export Rule Change that Could Boost Gun Industry



Dems Move to Block Export Rule Change that Could Boost Gun Industry By Chris Eger 12 July 2019

Lawmakers in the U.S. House on Thursday agreed to a measure that would derail a planned change to the dense federal regulations on gun exports.

The move, an amendment to the National Defense Authorization Act — the must-pass funding bill for the military — was agreed to in a Democrat-heavy 225 to 205 vote. Introduced by U.S. Rep. Norma Torres, D-CA, the proposal would block President Trump's nearly complete transfer of several weapons categories from export licensing controlled by the State Department to the more relaxed purview of the Commerce Department.

"When it comes to keeping firearms out of the hands of terrorists and drug cartels, we should err on the side of caution," said Torres, who had previously introduced her legislation as a stand-alone bill that failed to make it out of committee.

The three categories of the State Department's United States Munitions List — those dealing with small arms including firearms, close assault weapons, combat shotguns and ammunition and ordnance — are set to transfer to the Commerce Control List, which, as previously reported, could benefit domestic gun and ammo makers looking to sell more overseas.

Congressman Lee Zeldin, a Republican from New York, argued on the House floor that Torres was off-base in her remarks, saying, "This jurisdictional transfer does not govern the illicit transfer of firearms that are often used in violent crimes and human rights abuses overseas. The U.S. Government will continue its longstanding end-use modernizing efforts, including vetting of potential end-users, to help prevent human rights abuses."

National gun control groups applauded the adoption of the amendment to block the transfer of export oversight, arguing it would not only continue the current strict regulations on overseas small arms sales but would also block 3-D printed weapon plans from being posted online.

"Firearms are not parts shipped to another country to build a plane or car, they are deadly weapons that can stir conflicts and kill innocent civilians," said Robin Lloyd, managing director at Giffords. "In an attempt to appease the gun lobby, the Trump Administration moved to weaken regulations over firearm exports. That might be good for the bottom line of the corporate gun lobby, but it harms the national security of our country."

Other facets of the NDAA pushed through the Democrat-controlled body this session are \$150 million in cuts to the Army's request for ammunition, \$300 million in cuts to the Navy's new aircraft request, as well as further cuts to Air Force and Marine modernization programs.

A final vote on the NDAA is expected in the coming days.

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 $Link: \ https://www.guns.com/news/2019/07/12/dems-move-to-block-export-rule-change-that-could-boost-gun-industry$

Matthew Marquis

Office of Congressional & Public Affairs Bureau of Political-Military Affairs (PM/CPA) U.S. Department of State

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Message

From: Monjay, Robert [MonjayR@state.gov]

Sent: 7/15/2019 11:07:58 PM

To: Kathleen Barfield [Kathleen.Barfield@bis.doc.gov]
Subject: RE: Letter on Cats I-III to Sec DOC and Sec DOS

Great, thank you

Official

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From: Kathleen Barfield < Kathleen. Barfield@bis.doc.gov>

Sent: Monday, July 15, 2019 1:04 PM **To:** Monjay, Robert <MonjayR@state.gov>

Subject: RE: Letter on Cats I-III to Sec DOC and Sec DOS

From: Monjay, Robert < MonjayR@state.gov > Sent: Monday, July 15, 2019 12:56 PM

To: Kathleen Barfield < <u>Kathleen.Barfield@bis.doc.gov</u>> **Subject:** Letter on Cats I-III to Sec DOC and Sec DOS

Kathy,

The National Shooting and Sportsman's Federation (NSSF) sent a letter asking about the status of the revisions to USML Categories I-III to our respective Secretaries. I would like to chat with you about that for a minute. If it is with someone else in BIS, please let me know.

Thanks Rob

Robert J. Monjay U.S. Department of State

Office of Defense Trade Controls Policy

Phone: 202.663.2817 Mobile:

Email: MonjayR@state.gov

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From: Marquis, Matthew R [MarquisMR@state.gov]

Sent: 7/17/2019 6:36:32 PM

To: PM-DTCP-Tasking-DL [PM-DTCP-Tasking-DL@state.gov]

CC: PM-CPA [PM-CPA@state.gov]; Miller, Michael F [Millermf@state.gov]; Darrach, Tamara A [DarrachTA@state.gov]

Subject: CPA Media Monitoring: Roll Call: Defense conferees to decide fate of firearms export oversight



Defense conferees to decide fate of firearms export oversight By Rachel Oswald 17 July 2019

Among the many thorny issues Senate and House negotiators have to hash out as they negotiate a final annual defense policy bill this summer is whether to block the Trump administration from weakening regulations around the export of firearms.

The House version of the fiscal 2020 defense authorization measure contains a provision that would restrict the administration from moving forward with its plan to shift export control of firearm sales from the State Department to the Commerce Department.

Critics of the proposed change, who include the large majority of Democrats, anti-gun violence groups and human rights advocates, worry it will make it easier for rogue foreign military units, extremists and crime syndicates to obtain American-made firearms, assault weapons, shotguns and ammunition.

Supporters of the change, who include the vast majority of Republicans and the firearms industry trade association, argue it will simplify and speed up the export process at a time of strong global competition to the U.S. defense industry.

The Senate's annual defense policy bill would not ban the administration from moving forward with its plan to shift commercial firearms from the State Department's U.S. Munitions List to the Commerce Department's Control List, which is considered less stringent and comes with substantively less congressional oversight requirements.

"I think there are a lot of members of Congress that still see export control as being about brake pads, urine bags and F-16 bolts," said Colby Goodman, an independent arms control analyst who backs keeping export oversight with the State Department. "Republicans during [House] floor debate were talking about how they don't see what the concern is . . . saying these are commercial items and you can buy these things in U.S. stores and they are sold everywhere so why should we really have these more stringent controls?"

Democrats' concerns are more urgent, he said: "Firearms are used regularly by militaries and are used in armed conflicts and insurgencies . . . and they pose a significant concern for human rights violations, and these are the reasons why they should remain under control."

Uncertain conference prospects

The fate of the firearms rule, which was largely developed by the Obama administration, will hardly be the most contentious issue that House and Senate conferees have to work through.

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More high-profile partisan fights are expected over the bill's topline budget authorization number, restrictions on the development of new nuclear weapons, and Iran war powers. In fact, the fiscal 2020 defense policy bill is shaping up to be one of the most polarizing in years. Not a single House Republican last week voted in favor of the traditionally broadly bipartisan measure.

It remains to be seen whether more high-profile issues to fight over will help or hurt prospects for the firearms rule language that Rep. Norma J. Torres, D-Calif., succeeded in getting adopted during amendment debate by a narrow vote of 225-205.

"We should all be able to agree that putting more firearms in the wrong hands would make the world a more dangerous place," Torres, who modeled her amendment on legislation she introduced earlier this year, said in a statement. "This doesn't prevent or create any new restrictions on arms exports. It simply protects congressional oversight, protects national security, and keeps deadly weapons from falling into the hands of drug cartels and terrorists."

One co-sponsor of her measure, House Foreign Affairs Chairman Eliot L. Engel, D-N.Y., is expected to be named as a House conferee on the defense policy bill and to use that position to advocate for keeping the language in the final product.

"We must do everything we can to prevent the Trump Administration from making it easier for firearms — including grenades, flamethrowers and 3-D printed guns — to proliferate around the world," Engel said in a statement. "This is not about the Second Amendment, which applies in the United States. It's about loosening controls on exports of dangerous weapons."

In arguing in favor of letting Commerce take over export control of firearms, Republicans have repeatedly noted the change was largely developed by the Obama administration as part of its effort to overhaul export rules for many categories of defense-related items.

"This rule change should be finalized. After years of input from both sides of the aisle to make the change from State to Commerce, there is no reason this decision, which started in the last administration, needs to be delayed any longer," Rep. Lee Zeldin, R-N.Y., said in floor remarks last week. He noted export oversight of components for missile launch vehicles, military aircraft, submersibles and tanks has already been transferred from State to Commerce.

Bu none of the items whose export oversight was previously transferred were complete weapon systems that would allow a person to aim and fire on a target, Torres responded to Zeldin.

"The Obama administration did not move, or even propose to move, firearms and ammunition," she said. "They saw what happened at Newtown and knew that we needed to be cautious about these weapons."

In late February, Senate Foreign Relations ranking member Robert Menendez used his leadership position to place an informal hold on the firearms rule to keep it from being implemented. Given that the Trump administration on multiple occasions has blown through Menendez's holds, it's unclear how long it will respect this one.

Menendez, a New Jersey Democrat who has offered his own bill to prevent the administration from removing any firearm from State's Munitions List, told CQ Roll Call on Tuesday he supports keeping the Torres provision in the defense policy bill.

1	Link: https:/	//www.rollo	call.com/new	s/congress/d	letense-conti	erees-to-decid	de-fate-of-firea	.rms-export-ov	/ersight
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Office of Congressional & Public Affairs Bureau of Political-Military Affairs (PM/CPA) U.S. Department of State

202.647.6968 Phone:

MarquisMR@state.gov Web: PM Homepage |Twitter: @StateDeptPM e-mail:

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Official

UNCLASSIFIED

From: Nightingale, Robert L [NightingaleRL@state.gov]

Sent: 7/21/2019 9:05:57 PM

To: Dorosin, Joshua L [DorosinJL@state.gov]

Subject: FW: **FOR REVIEW ** Information Memo to D for the Fall Unified Agenda

Attachments: IM to D - Fall Unified Agenda.docx; Tab 1 - Preamble to the Agenda Fall 2019.pdf; Tab 2 -- Agenda rules Fall 2019.pdf;

Delegation of Authority 401 (002).pdf

Importance: High

Hi Josh, flagging this question from Alice – do you think it's fine for her to circulate to 7^{th} floor staffers at this point, or would you like to review first? Best, Robby

Official

UNCLASSIFIED

From: Kottmyer, Alice M <KottmyerAM@state.gov>

Sent: Saturday, July 20, 2019 11:10 AM

To: Nightingale, Robert L < NightingaleRL@state.gov> **Cc:** Kottmyer, Alice M < KottmyerAM@state.gov>

Subject: FW: **FOR REVIEW ** Information Memo to D for the Fall Unified Agenda

Importance: High

Robby,

I haven't heard back from Josh.

Do you think it's okay if I send this out for wider clearance? I'd like M staff and the other U/S staffs to clear before we submit the Agenda on Thursday.

Thanks Alice

Official - SBU

UNCLASSIFIED

From: Kottmyer, Alice M < Kottmyer AM @state.gov>

Sent: Thursday, July 18, 2019 12:41 PM

To: Dorosin, Joshua L < DorosinJL@state.gov>

Cc: Nightingale, Robert L < NightingaleRL@state.gov>; Kottmyer, Alice M < KottmyerAM@state.gov>

Subject: **FOR REVIEW ** Information Memo to D for the Fall Unified Agenda

Importance: High

Josh:

The Fall *Unified Agenda* must be submitted not later than a week from today (7/26). The attached IM package, from Legal Adviser String to Deputy Sullivan, advises him of the rules on the *Agenda*.



Please let me know if this package is acceptable to send out for clearance.

Thanks Alice

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From: Marquis, Matthew R [MarquisMR@state.gov]

Sent: 7/22/2019 6:09:33 PM

To: PM-DTCP-Tasking-DL [PM-DTCP-Tasking-DL@state.gov]

CC: PM-CPA [PM-CPA@state.gov]; Miller, Michael F [Millermf@state.gov]

Subject: CPA Media Monitoring: Foreign Policy in Focus: The U.S. Is Flooding the World With Guns. Congress Can Stop That.



The U.S. Is Flooding the World With Guns. Congress Can Stop That. By John Lindsay-Poland 22 July 2019

When gun exporters and importers gather at a trade conference at the Trump Hotel in Washington later this month, they will confront mixed trends in their industry.

Gun manufacturing in the United States fell sharply in the first year of the Trump presidency, by more than 27 percent — a change widely attributed to gun buyers' confidence that Trump would maintain or expand commercial access to firearms, limiting the impulse to stock up over a short period of time. Gun imports into the United States have also dropped significantly, with pistol imports falling by over 20 percent from 2016 to 2018.

But reduced gun production was partly compensated by a record level of U.S. gun exports to other nations, which grew by nearly 30 percent in 2017. U.S. gun companies dramatically increased their firearms exports globally — to 488,300 guns in 2017, more than in any year on record, according to a report by the Bureau of Alcohol, Tobacco, and Firearms (ATF). The United States exported even more firearms in 2018, according to U.S. Census Bureau data, and the Trump administration seeks to expand such exports even more.

Last year, the administration proposed a regulatory change to transfer the export licensing of guns to the much looser rules of the Commerce Department, which industry leaders expect will "significantly expand their opportunities," while removing congressional oversight and severely reducing the capacity to control the end uses of exported weapons.

The proposed rule would apply to sniper rifles, semi-automatic assault rifles, and other weapons used in warfare around the world. The change would also effectively deregulate the production of 3D-printed weapons, which are currently considered exports.

But the proposed change was set back on July 11, when the House of Representatives approved an amendment sponsored by Rep. Norma Torres (D-CA) to the National Defense Authorization Act (NDAA) that prohibits taking gun exports off the State Department's U.S. Munitions List.

The State Department Trashed Its Own Authority to Control Weapons Sales

The growth in U.S. gun sales outside the country occurred as the Trump administration's weapons export licensing agency was understaffed and in devastating disarray, according to a State Department Inspector General report in February.

The report found that the Directorate of Defense Trade Controls, which reviews and issues licenses to export weaponry, was 28 percent understaffed. The agency also had failed to notify Congress of arms sales as required

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by law, scrapped a unit for training officers, failed to consult the State Department's regional and human rights bureaus on proposed arms exports, and mistakenly approved an export license (later revoked) for more than a billion dollars of firearms to the Philippines.

Philippines police and military forces are credibly alleged to have committed thousands of extrajudicial killings under current President Rodrigo Duterte. Yet the United States shipped more than 86,000 semiautomatic handguns to the Philippines in 2018, more than six times as many as the previous year, according to U.S. International Trade Commission (USITC) records.

Nearly all of these weapons were Glock handguns exported from Georgia, a comparison of ATF and Census Bureau data reveals. Like other European gun producers, Glock has much moved its production from Austria to the United States to take advantage of the enormous U.S. police and civilian market as well as looser export laws.

Practically the entirety of the uptick in 2017 in foreign gun sales comes from pistols exported by New Hampshire-based Sig Sauer Inc., which more than doubled in number from 2016 to 177,414 pistols in 2017. Sig Sauer accounted for 64 percent of all pistols exported from the U.S. in 2017.

New Hampshire pistol exports amounted to \$41.8 million in 2017, according to U.S. Census Bureau data. (Sig Sauer was virtually the only company to export pistols from New Hampshire in 2017, according to the ATF report.) The largest buyers were Thailand (\$15 million), followed by United Arab Emirates (UAE, at \$4.8 million), Canada, and Germany.

Foreign Gun Sales Were Even Higher in 2018

ATF doesn't publish detailed gun manufacturing and export data until a full year has passed, but the Census Bureau and U.S. International Trade Commission post the data monthly. Exports accounted for 6 percent of U.S. gun production in 2017, a portion that nearly doubled from 2016, when it was only 3.3 percent. The increased exports in 2018 suggest that portion has grown even more.

And total pistol exports from New Hampshire in 2018 grew to more than \$64 million, about half more than in 2017. The biggest buyers in 2018 were Thailand — which received a whopping \$39.5 million worth of pistols from New Hampshire — and UAE, which purchased \$5.9 million worth. The UAE is waging war in Yemen, which has led to thousands of deaths and a humanitarian catastrophe.

In 2017, Congress was notified of two licenses for exporting 9mm pistols to Thailand valued at \$93.9 million, as well as \$48.6 million for five export licenses in various types of firearms to UAE.

Meanwhile, the U.S. exported more than 72 million bullets (valued at \$125 million) to Afghanistan in 2018, far more than any other country, and more than eight times the dollar value of bullets exported to Afghanistan in 2017. Most of the ammunition was exported to Afghanistan from Kentucky and Indiana, Census Bureau data shows.

Four of the top ten recipients of ammunition last year were countries with relatively low levels of violence (Canada, Australia, Germany, and UK). But Israel received more than \$26 million worth of bullets, while the Philippines received more than \$14 million in ammo (most of it exported from Missouri).

Policy Options

Democrats in the House of Representatives have proposed legislation to stem gun violence, including proposals to ban assault weapons and high-capacity magazines. Such measures would have significant impacts in Mexico,

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where criminal organizations rely heavily on such weaponry, which can be purchased easily in the United States and trafficked over the border.

But it is crucial that the House Democratic majority also consider action to control and reduce the explosive growth of weapons exports to countries all over the world. The NDAA amendment approved by the House to prohibit the transfer of gun export licensing to the Commerce Department is an important step.

In May, more than 100 organizations called on Congress to stop the regulatory change, even proposing to prohibit the change through an NDAA amendment. The House amendment is part of the 1,200-plus-page military spending bill that will go to conference to be reconciled with the Senate version of the NDAA, which did not address gun export rules. The bill then goes to the White House for the president's signature.

More is required. Congress should hold hearings on the devastating atrocities committed with these weapons and fund (and require) the State Department to adequately control weapons export licenses. Organizations working to reduce gun violence should expand their sights to stopping violence from U.S. guns exported beyond our militarized borders. The lives of people all over the world hang in the balance.

Link: https://fpif.org/the-u-s-is-flooding-the-world-with-guns-congress-can-stop-that/

Matthew Marquis

Office of Congressional & Public Affairs Bureau of Political-Military Affairs (PM/CPA) U.S. Department of State

Phone: 202.647.6968

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Case 2:20-cv-00111-RAJ Document 106-13 Filed 09/23/20 Page 240 of 378

Message

From: Kottmyer, Alice M [KottmyerAM@state.gov]

Sent: 7/23/2019 12:51:57 PM

To: Hart, Robert L [HartRL@state.gov]; Monjay, Robert [MonjayR@state.gov]

CC: Kottmyer, Alice M [KottmyerAM@state.gov]

Subject: FW: ** FLASH CLEARANCE** Information Memo to D for the Fall Unified Agenda

Attachments: IM to D - Fall Unified Agenda.docx; Tab 1 - Preamble to the Agenda Fall 2019.pdf; Tab 2 -- Agenda rules Fall 2019.pdf;

Delegation of Authority 401 (002).pdf

Importance: High

Hi Rob and Rob -

The Unified Agenda is out for clearance with the U/S staffs. See below, and attached. One of the clearers suggested that PM should clear the package, (I'm sorry I didn't think of that myself.)

If you could review & clear by COB today, I would appreciate it.

Thanks

Alice

Official - SBU UNCLASSIFIED

From: Kottmyer, Alice M <KottmyerAM@state.gov>

Sent: Monday, July 22, 2019 9:33 PM

To: M_Clearance <M_Clearance@state.gov>; T_Staff <T_Staff@groups.state.gov>; R_Clearances <R_Clearances@state.gov>; E_SpecialAssistants <E_StaffAssistants@state.gov>; Mohamoud, Safia <mohamouds@state.gov>; Jessen, Amanda <JessenA@state.gov>; Dorosin, Joshua L <DorosinJL@state.gov>

Cc: Nightingale, Robert L < NightingaleRL@state.gov>; Kottmyer, Alice M < KottmyerAM@state.gov>

Subject: ** FLASH CLEARANCE** Information Memo to D for the Fall Unified Agenda

Importance: High

Colleagues:

The Fall *Unified Agenda* will be submitted this Thursday. The attached IM package, from Acting Legal Adviser String to Deputy Sullivan, advises D of the rules on the *Agenda*.



I apologize for the short fuse, but please clear by COB tomorrow. Of course, I'm happy to answer any questions.

Thanks,

Alice Kottmyer
Attorney-Adviser | Office of Management
Office of the Legal Adviser | Department of State
202-647-2199 | BB | | kottmyeram@state.gov

Official - SBU UNCLASSIFIED

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Message

Monjay, Robert [MonjayR@state.gov] From:

Sent: 7/23/2019 1:52:41 PM

Heidema, Sarah J [HeidemaSJ@state.gov]; Foster, John A [FosterJA2@state.gov] To:

CC: Hart, Robert L [HartRL@state.gov]

Fwd: ** FLASH CLEARANCE** Information Memo to D for the Fall Unified Agenda Subject:

Attachments: IM to D - Fall Unified Agenda.docx; Tab 1 - Preamble to the Agenda Fall 2019.pdf; Tab 2 -- Agenda rules Fall 2019.pdf;

Delegation of Authority 401 (002).pdf

Sarah,

See the below from Alice asking for PM clearance on the attached IM to D on the Unified Agenda

Please advise if I can clear for PM on this.

Thanks Rob

Robert Monjay 202-663-2817 (office) (mobile)

From: Kottmyer, Alice M <KottmyerAM@state.gov>

Sent: Tuesday, July 23, 2019 8:51:57 AM

To: Hart, Robert L <HartRL@state.gov>; Monjay, Robert <MonjayR@state.gov>

Cc: Kottmyer, Alice M < Kottmyer AM@state.gov>

Subject: FW: ** FLASH CLEARANCE** Information Memo to D for the Fall Unified Agenda

Hi Rob and Rob –

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If you could review & clear by COB today, I would appreciate it.

Thanks

Alice

Official - SBU

UNCLASSIFIED

From: Kottmyer, Alice M <KottmyerAM@state.gov>

Sent: Monday, July 22, 2019 9:33 PM

To: M Clearance < M Clearance@state.gov>; T Staff < T Staff@groups.state.gov>; R Clearances <R Clearances@state.gov>; E SpecialAssistants <E StaffAssistants@state.gov>; Mohamoud, Safia <mohamouds@state.gov>; Jessen, Amanda <JessenA@state.gov>; Dorosin, Joshua L <DorosinJL@state.gov>

Cc: Nightingale, Robert L < NightingaleRL@state.gov>; Kottmyer, Alice M < KottmyerAM@state.gov>

Subject: ** FLASH CLEARANCE** Information Memo to D for the Fall Unified Agenda

Importance: High

Colleagues:

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Thanks,

Alice Kottmyer

Attorney-Adviser | Office of Management
Office of the Legal Adviser | Department of State
202-647-2199 | BB | | kottmyeram@state.gov

Official - SBU UNCLASSIFIED

From: PM-Staffers Mailbox [PM-StaffersMailbox@state.gov]

Sent: 7/23/2019 10:15:13 PM

To: Miller, Michael F [Millermf@state.gov]

CC: PM-Staffers Mailbox [PM-StaffersMailbox@state.gov]; Windecker, Melissa A [WindeckerMA@state.gov]

Subject: FW: ** FLASH CLEARANCE** Information Memo to D for the Fall Unified Agenda

Attachments: IM to D - Fall Unified Agenda.docx; Tab 1 - Preamble to the Agenda Fall 2019.pdf; Tab 2 -- Agenda rules Fall 2019.pdf;

Delegation of Authority 401 (002).pdf

Importance: High

Hello,

Please see attached IM to D for your review and clearance.

Thanks, Ashley

Official - SBU UNCLASSIFIED

From: PM-Staffers Mailbox < PM-Staffers Mailbox@state.gov>

Sent: Tuesday, July 23, 2019 3:13 PM

To: Hart, Robert L < HartRL@state.gov >; Heidema, Sarah J < HeidemaSJ@state.gov >

Cc: Windecker, Melissa A <WindeckerMA@state.gov>; PM-Staffers Mailbox <PM-StaffersMailbox@state.gov>

Subject: FW: ** FLASH CLEARANCE** Information Memo to D for the Fall Unified Agenda

Importance: High

Dear Sarah and Robert

Can you please clear on the attached IM for D?

Many thanks

Erica Marrero
Staff Assistant
Bureau of Political Military-Affairs
PM/FO SharePoint
2201 C Street, NW, Room 6312B
202-647-5104

Official - SBU

UNCLASSIFIED

From: Abisellan, Eduardo <AbisellanE@state.gov>

Sent: Tuesday, July 23, 2019 3:05 PM

To: PM-Staffers Mailbox < PM-StaffersMailbox@state.gov>; Windecker, Melissa A < WindeckerMA@state.gov>

Cc: Kottmyer, Alice M < KottmyerAM@state.gov >; Brechwald, Matthew J (T) < BrechwaldMJ2@state.gov >

Subject: FW: ** FLASH CLEARANCE** Information Memo to D for the Fall Unified Agenda

Importance: High

PM Team,

I apologize for the short fuse, I thought you were on the email. Request your review and clearance by COB,

I'll clear contingent on your clearance.

Vr/Ed

7-6634

Official - SBU UNCLASSIFIED

From: Kottmyer, Alice M < Kottmyer AM@state.gov>

Sent: Monday, July 22, 2019 9:33 PM

To: M Clearance <M Clearance@state.gov>; T Staff <T Staff@groups.state.gov>; R Clearances <R Clearances@state.gov>; E SpecialAssistants <E StaffAssistants@state.gov>; Mohamoud, Safia <mohamouds@state.gov>; Jessen, Amanda <JessenA@state.gov>; Dorosin, Joshua L <DorosinJL@state.gov>

Cc: Nightingale, Robert L < NightingaleRL@state.gov>; Kottmyer, Alice M < KottmyerAM@state.gov>

Subject: ** FLASH CLEARANCE** Information Memo to D for the Fall Unified Agenda

Importance: High

Colleagues:

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I apologize for the short fuse, but please clear by COB tomorrow. Of course, I'm happy to answer any questions.

Thanks,

Alice Kottmyer

Attorney-Adviser | Office of Management Office of the Legal Adviser | Department of State 202-647-2199 | *BB* | | kottmyeram@state.gov

Official - SBU **UNCLASSIFIED**

From: Marquis, Matthew R [MarquisMR@state.gov]

Sent: 7/25/2019 2:24:03 PM

To: PM-DTCP-Tasking-DL [PM-DTCP-Tasking-DL@state.gov]

CC: PM-CPA [PM-CPA@state.gov]; Miller, Michael F [Millermf@state.gov]

Subject: CPA Media Monitoring: Senator Menendez: Menendez Urges Facebook to Remove Links to 3D Printable Gun

Blueprints



Menendez Urges Facebook to Remove Links to 3D Printable Gun Blueprints By Sen Bob Menendez 24 July 2019

U.S. Senator Bob Menendez (D-N.J.), Ranking Member of the Senate Foreign Relations Committee, today called on Facebook reverse their decision to allow instructions for obtaining 3D-printed gun blueprints on their giant social media platform. Last week, it was reported that Facebook would allow "legitimate" gun shops and online vendors to offer instructions for obtaining the instructions for "downloadable guns" in places where it is legal to do so.

"At a time when the firearm death rate is at a historic high, one of the country's most prominent tech companies should not be facilitating access to these deadly weapons," Sen. Menendez wrote in a letter to Facebook CEO Mark Zuckerberg. "If Facebook takes the position that facilitating the distribution of such instructions does not violate the law, it raises the obvious issue of how Facebook plans on ensure such content from 'a real brick-and-mortar store, legitimate website, brand or government agency' doesn't fall into the hands of those who should not have them."

In June 2018, the State Department settled a years-long lawsuit brought by a gun activist after the federal government blocked the website, Defense Distributed, from posting online directions for a 3D plastic printable gun. After several states sued, a federal judge blocked the Administration's decision to allow entities such as Defense Distributed from posting such files online. The court order effectively outlaws distribution of these blueprints.

"I strongly urge you to reverse course on your decision to allow instructions for obtaining 3D-printed gun blueprints on your platform," added the Senator.

Sen. Menendez asked Zuckerberg why Facebook changed their August 2018 policy and reminded him that allowing his global-reach platform to post 3D gun blueprints and make them accessible to anyone outside the U.S., it would potentially violate current law.

In August 2018, Sen. Menendez joined colleagues in sending a letter to multiple social media platforms including Facebook, asking them to proactively block any distribution of 3D gun blueprints on their platforms. Earlier this year, Sen. Menendez asked Twitter to remove the user @IvanTheTroll12 after the user published 3D guns blueprints, and as a result, the platform updated its policies to include an explicit ban of this type of content.

Sen. Menendez has continued his calls for social media platforms to enforce their policies and police their platforms to keep 3D guns out of our communities. He joined colleagues in introducing the bicameral 3D Printed Gun Safety Act, legislation to prohibit the online distribution of blueprints and instructions that allow for 3D printing of firearms.

The full text of the letter can be found here and below.

Dear Mr. Zuckerberg,

I write with great alarm regarding Facebook's decision to allow certain users to post instructions for obtaining blueprints for 3D-printed firearms. As you know, in August 2018, Facebook announced it would block users from sharing such content. "Sharing instructions on how to manufacture firearms using 3D printers or CNC milling machines is not allowed under our Community Standards," a spokesperson said in a statement. "In line with our policies, we are removing this content from Facebook." Now Facebook will allow "legitimate" gun shops and online vendors to offer instructions for obtaining the instructions for "downloadable guns" in places where it is legal to do so.

As you may know, in June 2018, the Department of State suddenly settled a years-long lawsuit brought by gun activist Cody Wilson that began after the federal government blocked his company's website, Defense Distributed, for posting online directions for a 3D plastic printable pistol, citing international export law. Several states sued, and in August 2018, a federal judge in Washington State blocked the Administration's decision to allow entities such as Defense Distributed from posting CAD files online. Given the court order in effect, the distribution of these blueprints violates the law. I urge you to take immediate action to remove the distribution of the links.

3D-printed lethal weaponry pose a unique risk to the public as they cannot easily or reliably be detected by metal detectors at airports, schools, governmental or other facilities. At a time when the firearm death rate is at a historic high, one of the country's most prominent tech companies should not be facilitating access to these deadly weapons. If Facebook takes the position that facilitating the distribution of such instructions does not violate the law, it raises the obvious issue of how Facebook plans on ensure such content from "a real brick-and-mortar store, legitimate website, brand or government agency" doesn't fall into the hands of those who should not have them. Even when limited to "brick and mortar stores," a critical difference between this computer code and an actual firearm is that the store can sell the code without a background check.

Again, I strongly urge you to reverse course on your decision to allow instructions for obtaining 3D-printed gun blueprints on your platform. In addition, I would like to know what Facebook is doing to ensure that other users do not use your platform for such nefarious and potentially unlawful actions in the future. Next, I would like to know why Facebook changed its policy regarding the distribution of 3D printed firearm blueprints. Finally, if you allow posting of these blueprints in a manner that any person outside the United States can access them, such action would be potentially illegal under current law; does Facebook really want to enable and facilitate potentially illegal activity? Thank you in advance for your cooperation and I look forward to your timely response.

Sincerely,

Link: https://www.menendez.senate.gov/news-and-events/press/menendez-urges-facebook-to-remove-links-to-3d-printable-gun-blueprints

Matthew Marquis

Office of Congressional & Public Affairs Bureau of Political-Military Affairs (PM/CPA) U.S. Department of State

Phone: 202.647.6968

e-mail: MarquisMR@state.gov | Web: PM Homepage | Twitter: @StateDeptPM

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Official UNCLASSIFIED

From: Marquis, Matthew R [MarquisMR@state.gov]

Sent: 7/25/2019 8:44:15 PM

To: PM-DTCP-Tasking-DL [PM-DTCP-Tasking-DL@state.gov]; Legal-PM-DL [Legal-PM-DL@state.gov]

CC: PM-CPA [PM-CPA@state.gov]; Miller, Michael F [Millermf@state.gov]

Subject: CPA Media Monitoring: The Trace: As Social Networks Crack Down, 3D-Printed Gun Community Moves to New

Platforms



As Social Networks Crack Down, 3D-Printed Gun Community Moves to New Platforms By Champe Barton 25 July 2019

Earlier this month, Reddit became the latest social media platform to aggressively enforce its ban on sharing plans for 3D-printed guns, shuttering a popular channel dedicated to the cause that had over 4,000 users.

"Filling me with spite only makes me work harder," wrote a user known as IvanTheTroll, in a discussion thread about the shutdown posted elsewhere on Reddit. IvanTheTroll leads Deterrence Dispensed, an informal group of online activists who make and distribute files to print 3D-printed guns. The group had been active on both Twitter and YouTube before the platforms closed its accounts in late May following The Trace's reporting. Now Reddit, once celebrated for its lack of content moderation, had done the same.

"Soooo...... rally point?" a user replied to IvanTheTroll's message. "Keybase," he replied.

IvanTheTroll was referring to a chat app launched by the founders of the dating site OkCupid. Keybase allows users to verify their identities by linking the app to social media accounts, and provides end-to-end encryption, with the option to set an expiration date for messages after they're sent. In the two weeks since Reddit handed down its ban, Deterrence Dispensed's Keybase team has become the sixth most popular on the platform, with more than 500 members.

IvanTheTroll declined to comment for this story. But Incarbonite, who runs another Keybase team dedicated to producing and distributing 3D-printed gun tech, said efforts to shut down the community were in vain. "People trying to stop the distribution of 3D printable gun files are on the losing end of history," he said.

Keybase is one of a new crop of websites and chat servers that have emerged to fill the void left by mainstream platforms' crackdown on 3D-printed gun files. On GunStreamer, a firearm-focused video sharing site, users post video tutorials on 3D-printed gun construction — IvanTheTroll moved his content to the platform a day after YouTube banned him. On Spee.ch, a blockchain-based media hosting site, Deterrence Dispensed makes blueprints available for AR-15s, handgun frames, and a Glock magazine dubbed the "Menendez mag" after the New Jersey senator who is pushing the major tech platforms to clamp down on 3D gun blueprints. On GitHub, another major 3D-printed gun outfit called FOSSCAD hosts blueprints for pistols, rifles, and grenade launcher ammunition.

Keybase, GunStreamer, and GitHub did not respond to requests for comment.

"Many consumers would prefer that they make choices for themselves about what they watch, read, and consume, rather than having Mark Zuckerberg or Google make those decisions for them," said Jeremy Kauffman, the CEO of LBRY, the company that operates Spee.ch.

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Kauffman added that Spee.ch would only remove 3D-printed gun files if courts determine them illegal. And even if that happened, they would remain on the blockchain, a digital protocol for storing and serving data from which content cannot be removed. "In terms of taking files off of the LBRY topper, that's like saying you would take them off of a person's email," Kauffman said. "It can't be done." Last year, Kauffman shared an encrypted 3D gun blueprint from his personal Twitter account, signaling his support for their distribution.

3D-printed guns, otherwise known as ghost guns, can be manufactured at home from plastics and lack serial numbers, making them virtually untraceable to law enforcement. Over the past decade, 3D printers have become increasingly affordable, and the Internet has given interested parties the ability to easily share printing files and crowd source strategies for improving builds.

While printing the guns is legal, some states regulate the process. In California, any firearm, printed or otherwise, must have a serial number obtained from the state's Justice Department. In New Jersey, individuals must obtain a federal license to manufacture firearms before printing 3D guns from home. Federally, the Undetectable Firearms Act, which sunsets in 2023, makes illegal any firearm that cannot be detected by a metal detector, so all 3D printed guns in the United States must include some metal component to comply.

But the legality of disseminating blueprints for the builds is more precarious. Last year, the Justice Department overturned an Obama-era guidance that prevented the Texas-based Defense Distributed from publishing 3D-printed gun files on its website on the grounds that publication violated the Arms Export Control Act. Days before the company planned to finally publish the files, a federal judge in Washington temporarily blocked their release, agreeing with a coalition of states which argued that allowing the files to be shared publicly would likely cause those states to "suffer irreparable harm." That litigation is ongoing.

Doug Jacobson, an export controls attorney in Washington, D.C., said that until a clear federal determination is made, the files are technically illegal to share online. But he stressed that "while there may be a technical violation, it would be one a prosecutor most likely would not want to enforce, considering by the time prosecution moved forward, the law could be changed."

Pending a final determination on the legality of sharing the files, several major social media platforms have opted to ban the practice. Others have revised their policies when faced with public pressure. In May, following The Trace's reporting, Twitter issued a new policy explicitly prohibiting the sharing of 3D-printed gun plans. Reddit and YouTube had already included language in their community policies to the same effect.

But while the sites have effectively eliminated major players like Deterrence Dispensed, they've had significantly more trouble policing individuals. A review of recent posts on Twitter, Reddit, and YouTube reveals that links to files containing 3D-printed gun plans are still readily accessible on each platform. Some Twitter users have continued to share direct links to firearm downloads since the site's policy changes took effect, and many tweets predating the change remain accessible through the site's search. YouTube instructionals on how to build 3D-printed guns still have millions of views, and several Reddit threads aggregate links to online destinations for 3D-printed gun files.

The Trace used each site's reporting mechanism to flag a handful of offending posts and found that none were taken down within six days of reporting. Only after contacting Twitter and YouTube directly about the reported posts did content moderators remove them. Twitter also removed two other tweets sharing an identical link. More than a dozen tweets and videos — some containing the same links as those deleted — remain.

In an email, a Twitter spokesperson offered no specifics of any proactive efforts to remove tweets sharing files to firearms, but said that "40 percent of the content that's removed is now surfaced to our teams before it's reported or seen by people on Twitter." A Reddit spokesperson linked to the site's community guidelines in an email. A YouTube spokesperson said it had increased enforcement for links found in video descriptions and other places on the site.

Senator Robert Menendez, who published an open letter to Twitter CEO Jack Dorsey in April of this year urging the company to be more forceful in its policing of this content, said such lapses are unacceptable, whether from a social media company or not. "All companies and individuals must comply with laws. Per a court order, it is illegal to publish 3D gun blueprints," he said. "Social media platforms have a greater responsibility because of their massive reach; however, smaller platforms and websites such as Spee.ch and Keybase.io can't ignore their duty to bar users from sharing such harmful content in accordance with the law."

Facebook, against the prevailing wind in its industry, took steps last week to ease rather than tighten its restrictions around 3D-printed guns. The company updated its community standards to clarify that restrictions on discussing and promoting 3D-printed gun files apply only to private individuals. "Legitimate" businesses can freely promote on their Facebook pages that they distribute the files. They cannot, however, share files directly, or provide instructions for how to access them.

The policy change prompted Menendez to send a letter to Facebook CEO Mark Zuckerburg, urging him to revert the policy. "If Facebook takes the position that facilitating the distribution of such instructions does not violate the law, it raises the obvious issue of how Facebook plans on ensur[ing] such content from 'a real brick-and-mortar store, legitimate website, brand or government agency' doesn't fall into the hands of those who should not have them," Menendez wrote.

A Facebook spokesperson said that businesses were still prohibited from sharing 3D-printed gun files. She added that the policy is intended to clear a space for conversations around 3D-printed gun legislation and regulation.

Already, though, organizations are testing the policy's limits.

This week, a Tennessee-based research nonprofit called Atlas Arms, which is developing a blueprint for armorpiercing bullets that it claims will be legally available to the public, partnered with Deterrence Dispensed to establish an online resource on Facebook for information related to 3D-printed gun technology. Austin Jones, who runs Atlas Arms, said sharing access to blueprints is part and parcel of that mission. He posted links to two 3D-printed gun plans in the announcement of the partnership on Facebook.

"When I found out about this rule change, I felt that we were in a unique position to help, seeing as we are legitimate organization recognized by the federal government to provide educational resources to the public," he said. "But we wouldn't be doing this were it not for the rule change."

Jones added that his company would not share the files directly, and would instead share links to the Deterrence Dispensed Spee.ch page. But the two links shared by the page downloaded the files directly to the user's computer.

A Facebook spokesperson said the site would review the content in question and take action in line with company policy. A day later, the posts were removed.

Link: https://www.thetrace.org/2019/07/3d-printed-guns-social-media-ban/

Matthew Marquis

Office of Congressional & Public Affairs Bureau of Political-Military Affairs (PM/CPA) U.S. Department of State

Phone: 202.647.6968

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e-mail: <u>MarquisMR@state.gov</u> Web: <u>PM Homepage</u> [Twitter: @StateDeptPM

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Message

From: Johnson, Clifton M [JohnsonCM5@state.gov]

Sent: 7/25/2019 9:31:23 PM

To: Dorosin, Joshua L [DorosinJL@state.gov]
CC: Kottmyer, Alice M [KottmyerAM@state.gov]
Subject: Revised AM to D for the Fall Unified Agenda

Attachments: Tab 1 - Preamble to the Agenda Fall 2019.pdf; Tab 2 - Agenda Rules Fall 2019.xlsx; Tab 3 - Delegation of Authority

401.pdf; OMB - AM on Fall 2019 Unified Agenda (7-19).docx

Josh,

Attached as we discussed is the revised Unified Agenda package

Can you review (discussing with Marik as needed) and let us

know if we can proceed with this? If it looks ok to you either you or we can flip to Taryn for her clearance. Thanks, Cliff

Official - SBU (Attorney Work Product, Attorney-Client Privilege, Deliberative Process) UNCLASSIFIED

From: Koelling, Richard W [KoellingRW@state.gov]

Sent: 7/26/2019 12:06:44 PM

To: PM-DTCP-RAA [PM-DTCP-RAA@state.gov]
Subject: FW: CPA MEDIA MONITORING: 25 July 2019

Team, latest offering.

Richard W. Koelling, Jr.
Deputy Director (Acting)
Office of Defense Trade Controls Policy
Department of State
202-663-2828

Official

UNCLASSIFIED

From: Marquis, Matthew R < MarquisMR@state.gov>

Sent: Thursday, July 25, 2019 4:45 PM

To: Windecker, Melissa A < WindeckerMA@state.gov>; PM-Strategy < PM-Strategy@state.gov>

Cc: PM-CPA <PM-CPA@state.gov>; Brown, Stanley L <BrownSL@state.gov>; O'Keefe, Kevin P <OKeefeKP@state.gov>; Miller, Michael F <Millermf@state.gov>; Mak, Daniella <MakD@state.gov>; Dudding, Maria <DuddingM@state.gov>;

Nute, Kathryn M <NuteKM3@state.gov>; McVerry, James <James.Mcverry.ctr@dla.mil>; Phalen, Susan A

<PhalenSA@state.gov>; PM-Directors <PM-Directors@state.gov>; PM-Deputy-Directors <PM-Deputy-</p>

Directors@state.gov>; Cooper, R. Clarke < CooperRC@state.gov>

Subject: CPA MEDIA MONITORING: 25 July 2019



Alerts for 25 July 2019

"As Social Networks Crack Down, 3D-Printed Gun Community Moves to New Platforms", Doug Jacobson, an export controls attorney in Washington, D.C., said that until a clear federal determination is made, the files are technically illegal to share online. But he stressed that "while there may be a technical violation, it would be one a prosecutor most likely would not want to enforce, considering by the time prosecution moved forward, the law could be changed."

"Arab coalition intercepts Houthi drone targeting Saudi Arabia", The Iran-backed militia launched the drone from the province of Sanaa in Yemen toward civilian areas in Khamis Mushait, spokesperson Col. Turki Al-Maliki said.

"Tunisia's Essebsi, leading figure in shift to democracy, dies at 92", Parliament Speaker Mohamed Ennaceur was sworn in as interim president, in keeping with the constitution to smooth a transition of power ahead of an autumn presidential election in the birthplace of the Arab Spring revolts against dictatorship.

"From KGL To Qatar: Can The US Military Overcome Its Persian Gulf Complications? – OpEd",

Unfortunately, finding the right number of troops to deploy is hardly the only dilemma the Pentagon faces in the region. Considering Washington's track record of relying on problematic contractors like Erik Prince and Kuwait-based KGL for mission-critical services, and the ongoing feud among its allies in the Gulf Cooperation

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Council (GCC), it is an open question whether the US military forces in the region are currently in a position to deter or counter threats from Iran.

"Graham: I Told Turkey They Can Avoid Sanctions If They Don't Activate Russian Radar", "I'm in the camp of, if they don't activate the S-400, the sanctions don't have to be applied. My hope is to persuade Turkey not to activate the system because it's so disruptive to the relationship," Graham, R.-S.C., told Defense One. "My pitch to Turkey was: let's stand down on the S-400, let's start free-trade-agreement negotiations."

"Guardsmen train with African ally to strengthen security, defense", Upward Minuteman 2019 was a U.S. Africa Command exercise promoting the U.S. National Guard's State Partnership Program on the African Continent.

"Beijing's South China Sea stance is driving Vietnam into America's arms", Washington's overtures, meanwhile, are looking increasingly appealing – especially its wish to embed Vietnam into a "networked region" security architecture, which would not only enhance the country's bargaining power vis-à-vis China but also enable it to benefit more from American efforts to strengthen regional partners both economically and militarily in a bid to contain China's rise.

"Arms sales to Taiwan helpful to regional peace and stability: US", The U.S. Department of State responded that the arms sales to Taiwan were not only a consistent policy throughout multiple U.S. administrations but also contributed to the maintenance of regional peace and stability. It reaffirmed Washington's resolute opposition to attempts to interfere with Taiwan's future through non-peaceful means, including boycotts and embargoes.

"Preeminence Or Partnership? The United States In The Indo-Pacific – Analysis", The release of the Indo-Pacific Strategy Report by the U.S. Department of Defense last month has given further shape to the United States' vision for a Free and Open Indo-Pacific. The document underscores the linkages between economics, governance, and security and stresses the importance of allies and partners. However, it also reveals the contradiction between the U.S. aspiration to sustain global military preeminence and its conviction that "no one nation can or should dominate the Indo-Pacific."

"The ministry selected the first six F-16 fighter pilot candidates", The Slovak Republic will purchase F-16 C / D Block 70 US aircraft. The first four F-16s should arrive in Slovakia in 2022. The remaining ten will be shipped by the end of 2023.

<u>"Five F-16 Fighter Jets Expected Today"</u>, Five F-16 fighter jets and up to 110 airmen of the US Air Force are expected in Iceland today, Morgunblaðið reports. The squadron is part of NATO's Icelandic Air Policing – an operation to patrol Iceland's airspace. This is a peacetime collective defense mission involving the periodic presence of NATO fighter aircraft based in Keflavík.

"Senate Panel Advances Bill to Punish Saudis for Khashoggi Death", In a surprise move, Risch pulled his bill from consideration after the committee amended it to include Menendez's bill, which Risch said would prevent it from being signed by the president.

"India-US alliance needs realignment", The rise of China and the US desire to counterbalance it have revived India's importance in the eyes of Washington since the mid-2000s. Since then, India has been relying on the belief that it remains indispensable to Washington. Naturally, New Delhi feels it can effectively strike a balance between all countries and maximize its benefits.

<u>"Turkey's removal from F-35 programme not finalised; refund unclear –officials"</u>, Turkey's removal from the F-35 jet programme is not finalised and Ankara only remains suspended for now, Turkish military officials said on Thursday, adding that it was unclear whether Turkey would be refunded for its investments in the project.

- "Turkey's first S-400 shipment complete, second planned for Ankara: officials", Washington has also threatened to impose sanctions on Turkey, though Ankara has dismissed the warnings. It has instead put its trust in sympathetic comments from U.S. President Donald Trump, who has said that Turkey was treated "unfairly".
- "Germans go back to sparring over NATO's 2-percent spending target", "The Bundestag alone holds the purse strings," Mützenich told Kramp-Karrenbauer, as key lawmakers took turns responding to her speech. The new defense minister should prepare herself to deal with a "confident" parliament, as questions of military funding come up, he said.
- "Armenia fails in U.S. direction", Recently, the Armenian media received information about the U.S. military assistance to Azerbaijan and Armenia, which caused a shock to the Armenian side. The published data showed that the Armenian lobby fails its function of providing Yerevan with the U.S. funds and interrupting provision of financial resources for Azerbaijan.
- <u>"Things are heating up between Israel and Hezbollah in the Golan Analysis"</u>, The past week alone saw two deadly attacks against Iranian proxies in southern Syria attributed to Israel. Earlier this week an explosion killed Hezbollah operative Mashour Zidan in southern Syria and a few days later a rocket struck the strategic Tel Haraa site not far from where Zidan was killed.
- "America swaps its stick for a carrot in its dealings with Pakistan", Mr Trump welcomed Mr Khan to the White House for their first talks face to face. American anger was replaced with soft soap. The president flattered the former cricketer, lauding him as an athlete and leader. Their future was bright, trade deals were on the cards and the flow of aid could be switched back on.
- "Zimbabwe on track to clear landmines by 2025", Partners including Mine Action Authority (NAMAAZ), Mine Action Centre (ZIMAC), as well as the accredited demining operators- Anti-Personnel Landmines Removal Product Development (APOPO), HALO Trust, Mines Advisory Group (MAG) and Norwegian Peoples' Aid (NPA) believe given sufficient financial resources, the country will be able to complete clearance in the upcoming years.
- "Russia Promises More Support for Cuba, Including 'Military Technical' in Face of U.S. Pressure", Warnings swapped by Russian and U.S. officials on arms control predominantly involved potential positions in Eastern Europe, but Moscow's military footprint in Latin America has also raised concerns in Washington. Russian defense personnel have continued to offer "military-technical cooperation" to Venezuela and a Russian naval contingent arrived Monday in the port of Havana, where it remained during Lavrov's visit.
- "Pakistan wants to create a self-reliant, self-sustained defense industry", The Pakistani government is promoting aims to increase public-private cooperation and develop a self-reliant, self-sustained defense industry. But the private sector is skeptical.
- "Coast Guard commandant touts 'rule-based order' to counter Chinese aggression in the Indo-Pacific", Siding with the United States in the global power competition in the Indo-Pacific region means receiving a used Coast Guard cutter. It also means assistance with everything from enforcing international fishing regulations to search-and-rescue operations and training in maritime law enforcement, Schultz said.
- "Menendez Urges Facebook to Remove Links to 3D Printable Gun Blueprints", Sen. Menendez asked Zuckerberg why Facebook changed their August 2018 policy and reminded him that allowing his global-reach platform to post 3D gun blueprints and make them accessible to anyone outside the U.S., it would potentially violate current law.

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"China and U.S. trade negotiators to meet in Shanghai July 30-31", It would mark the first face-to-face meeting between U.S. and Chinese trade teams since presidents Donald Trump and Xi Jinping agreed at a G20 summit in Japan to revive talks to end their year-long trade war.

""Enthusiastic Commander 2019" Exercise between Saudi and US Forces, Concluded", Lieutenant General Al-Mutair stressed that the exercise aims at enhancing the compatibility of joint military action and cooperation between the two countries, exchanging experiences and concepts and raising combat preparedness. He also pointed out that this exercise is an extension of joint exercises between Saudi Royal Land Forces and forces of sisterly and friendly countries.

"Ukraine seized a Russian tanker that it says helped Moscow win a 2018 naval skirmish", Ukraine seized a Russian tanker that it said parked itself sideways in November 2018 to prevent Ukrainian vessels from entering the Kerch Strait, escalating tensions and leading to Russia seizing two Ukranian vessels and 24 Ukrainians. Negotiations to free the Ukrainians are still ongoing.

"U.S. Warship Sails Through Taiwan Strait Ahead of Trade Talks", The guided-missile cruiser USS Antietam conducted a transit Wednesday and Thursday, U.S. Seventh Fleet public affairs officer Clay Doss said in an email. The transit "demonstrates the U.S. commitment to a free and open Indo-Pacific. The U.S. Navy will continue to fly, sail and operate anywhere international law allows," he said.

Matthew Marquis

Office of Congressional & Public Affairs Bureau of Political-Military Affairs (PM/CPA) U.S. Department of State

Phone: 202.647.6968

e-mail: MarquisMR@state.gov | Web: PM Homepage |Twitter: @StateDeptPM

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Official

From: Monjay, Robert [MonjayR@state.gov]

Sent: 7/29/2019 9:04:04 PM

To: Miller, Michael F [Millermf@state.gov]

CC: Heidema, Sarah J [HeidemaSJ@state.gov]; Foster, John A [FosterJA2@state.gov]

Subject: FW: 1-3

Attachments: Draft Email Cooper to Ruggiero.docx

Mike,

Attached is our draft email for Cooper to Ruggiero on Cats I-III.

Thanks Rob

Official - SBU

UNCLASSIFIED

From: Monjay, Robert

Sent: Friday, July 26, 2019 11:55 AM

To: Heidema, Sarah J < HeidemaSJ@state.gov> **Cc:** Foster, John A < FosterJA2@state.gov>

Subject: RE: 1-3

Sarah,

John and I prepared the attached draft email.

Thanks Rob

Official - SBU

UNCLASSIFIED

From: Heidema, Sarah J < HeidemaSJ@state.gov>

Sent: Thursday, July 25, 2019 3:15 PM **To:** Miller, Michael F < Millermf@state.gov>

Cc: Monjay, Robert <MonjayR@state.gov>; Foster, John A <FosterJA2@state.gov>

Subject: 1-3

Monjay and John are working on a draft email and points now. We should have something to you tomorrow.

Sarah Heidema

Director

Office of Defense Trade Controls Policy Directorate of Defense Trade Controls Department of State

202-663-2809

Case 2:20-cv-00111-RAJ Document 106-13 Filed 09/23/20 Page 259 of 378

Message

From: Miller, Michael F [Millermf@state.gov]

Sent: 7/30/2019 2:31:57 PM

To: Cooper, R. Clarke [CooperRC@state.gov]

CC: Windecker, Melissa A [WindeckerMA@state.gov]; Brown, Stanley L [BrownSL@state.gov]; Monjay, Robert

[MonjayR@state.gov]; Hart, Robert L [HartRL@state.gov]; Heidema, Sarah J [HeidemaSJ@state.gov]; Koelling,

Richard W [KoellingRW@state.gov]

Subject: Outreach to NSC on USML Categories 1-3

Sir,

As previewed this morning and as follow-up from our discussion last week, here's a draft ping to the relevant NSC Sr. Director on Cats 1-3.

Standing by for any questions/edits.

Cheers, Mike

+++++++++++

Mike Miller

Acting Deputy Assistant Secretary Bureau of Political-Military Affairs U.S. Department of State 202-663-2861



Aug 96, 2019 View in browser

Message

From: POLITICO's Morning Trade

[morningtrade@politico.com]

Sent: 8/6/2019 2:01:11 PM **To**: StringMA@state.gov

Subject: The beginning of the end for

a China trade deal —
California olive growers seek
more duties on EU — U.S.
tech firms explore 'state-aid'
attack on France's digital tax

SY ADAM BEHSUDI

With help from Doug Palmer and Ryan McCrimmon

Editor's Note: This edition of Morning Trade is published weekdays at 10 a.m. POLITICO Pro Trade subscribers hold exclusive early access to the newsletter each morning at 6 a.m. Learn more about POLITICO Pro's comprehensive policy intelligence coverage, policy tools and services, at politicopro.com.

QUICK FIX

— A U.S.-China trade deal moved further into fantasyland after President Donald Trump formally labeled China a currency manipulator in response to Beijing letting the value of the yuan slide to counter U.S. tariff escalation.

- California olive growers are advocating for even more tariffs on imports of the Spanish fruit even after they were hit with antidumping and countervailing duties.
- U.S. tech firms are exploring ways to use the European Union's prohibition on state aid as an attack against France's digital services tax.

IT'S TUESDAY, **AUG**. **6!** Welcome to Morning Trade, where your host thinks this kid really needs to cash in with the tooth fairy. Got any tips to share? Let me know: abehsudi@politico.com or @abehsudi.

DRIVING THE DAY

THE BEGINNING OF THE END FOR A CHINA TRADE DEAL:

Trump finally got around to doing something he said would do the first day of his presidency: label China a currency manipulator. The new designation by the Treasury Department comes after Beijing let its currency fall to roughly 7 yuan to the U.S. dollar and ratchets up Trump's trade fight to an all out war.

Trump's action came after a round of angry tweets about China's currency intervention and announcement that it would halt any purchases of U.S. farm goods. Trump started the escalation last week when he said he would slap a 10 percent tariff by Sept. 1 on about \$300 billion worth of imports of all remaining items from China not yet hit by duties.

What's next? Treasury said it would engage in negotiations through the International Monetary Fund to adjust the rate of exchange, as required under the <u>Omnibus Trade and Competitiveness Act of 1988</u>. The last time Treasury designated a country as a currency manipulator was in the early 1990s, when China was named.

The action may only be symbolic, since the 1988 law only requires the two countries to negotiate either bilaterally or through the IMF, but it

will give Trump more ammunition to increase tariffs again. It also clears the way for the Commerce Department to start using China's undervalued currency as a government subsidy when imposing countervailing duties <u>under a proposal</u> the administration issued in May.

One person's manipulation is another's...: Most experts view China letting the value of the yuan slide not as "manipulation," as Trump accused Beijing of doing, but rather the lack of any intervention since Beijing had been propping up the value of its currency for years. The distinction probably doesn't matter to Trump, who views the currency depreciation as China trying to escape the impact of his tariffs. The People's Bank of China said the U.S. tariff escalation was to blame for the currency moving down in value.

"China's move to allow the renminbi to break 7 kills three birds with one stone: It sends a message to Trump that China can counter his tariffs, it lets markets know that further currency movements are still possible, and it modestly boosts the spirits of Chinese exporters," Scott Kennedy, a senior adviser and China expert at the Center for Strategic and International Studies, told Morning Trade.

AG EXPORTS TO CHINA TAKE A DIVE: The worsening trade tension could exacerbate what's already a down year for ag exporters. USDA released fresh <u>ag-trade data</u> on Monday, and the numbers continue to look bleak, especially for soybean farmers.

Exports of the crop to China totaled just 8.7 million metric tons from October through June, a huge decrease from 25 million metric tons over the same period in fiscal 2018. That represents a difference of \$6.5 billion in sales. Overall, ag exports through June totaled \$103 billion, compared with nearly \$111 billion at the same point last year.

What's next for Huawei? China's decision to halt U.S. agriculture purchases likely zapped any positive movement by the U.S. to grant export licenses for blacklisted company Huawei. U.S. chipmakers that badly wanted to resume sales to the Chinese telecommunications company had been told those licenses would be coming soon,

according to industry sources. One source close to the process says they're now on hold indefinitely.

USTR TO SUPPORT AFRICAN CONTINENTAL TRADE PACT: The

<u>U.S. pledged on Monday</u> to help negotiate and implement a new continental free trade agreement covering 54 out of the 55 nations in the African Union. But in remarks at the annual African Growth and Opportunity Act forum in Côte d'Ivoire, Deputy USTR C.J. Mahoney also stressed the U.S. desire for bilateral trade deals with individual African nations.

"While we remain committed to AGOA, there are limits to what a unilateral trade preference program can achieve," Mahoney said. "We hope that, in time, enduring and reciprocal free trade agreements with the United States will serve as a conduit for the investment many African countries desire." The statement came more than a year and a half after USTR Robert Lighthizer expressed hope of soon launching talks with an African country on a bilateral FTA.

california olive growers seek more duties on EU: One year after winning anti-dumping and countervailing duties averaging about 35 percent on imports of Spanish olives, California growers are hoping a long-running dispute over European support for Airbus will lead to even more taxes on the tasty Mediterrean fruit.

Michael Silveira, chairman of the Olive Growers Council of California, testified at a Trump administration hearing on Monday in favor of USTR's proposal to include olives on the list of EU goods that could be hit with 100 percent duties in the aircraft dispute. He also asked that three "bulk" categories of olives be added to the nine olive categories already proposed.

Silveira complained that "the Spanish industry is working overtime" to find any way it can to avoid the duties imposed last year. "A Spanish olive company has just invested in a U.S. ripe olive processor. The combined company has now terminated nearly all its contracts with U.S. growers, enabling it to import provisionally prepared bulk olives from Spain," Silveira said.

But the panel heard a different view from Phil Kafarakis, president of the Speciality Food Association. <u>He said USTR's proposal</u> to slap tariffs on EU food products such as cheeses, olives, olive oil, processed fruits, nuts and juices would hurt small retailers.

ALCOHOL COMPANIES: NO EU TARIFFS PLEASE: Robert

Tobiassen, president of the National Association of Beverage Importers, <u>urged USTR to target any retaliation</u> in the Airbus dispute at "aeronautic parts and equipment" used by the European manufacturer at its facilities in the United States. "Alcohol beverages have no linkage with planes other than being served to passengers," he said in his prepared remarks.

That point was underscored by Chris Swonger, president and CEO of the Distilled Spirits Council of the United States, who <u>warned that USTR's proposal to retaliate</u> against whiskey and other alcoholic products from the EU could lead to a loss of between 11,200 and 78,600 U.S. jobs, depending on the level of tariffs imposed.

The industry is already suffering from Trump's trade wars, Swonger said. Total U.S. alcoholic spirits exports fell by 7 percent, and whiskey exports fell by 13 percent, between June 2018 and May 2019 as a result of retaliatory duties imposed by the EU, China and Turkey in response to Trump's tariff moves, he testified.

U.S. TECH FIRMS EXPLORE 'STATE-AID' ATTACK ON FRANCE'S

<u>DIGITAL TAX:</u> U.S. tech giants like Google and Facebook are looking at attacking France's digital services tax with EU state aid laws, which prohibit measures that provide domestic companies an advantage over foreign rivals. U.S. companies are now trying to figure out whether the tax can be classified as state aid under EU law, POLITICO Europe's Thibault Larger reports.

The Association des Services Internet Communautaires, a technology lobby representing Google and Facebook in France, said last week it would complain to the European Commission about the country's digital tax. But the tactic could backfire. EU court decisions have supported similar tax measures in the supermarket sectors in Poland and Hungary even though those cases aren't seen as cast-iron

precedent. If the tax is found to be a disguised attack on U.S. companies, France would run afoul of the state-aid law and would likely have to rescind the tax measure.

LAWMAKERS KEEP PRESSURE UP ON FIREARMS EXPORT

CONTROL RULE: Sen. <u>Tom Cotton</u> (R-Ark.) wants the Trump administration to move forward with a rule that would ease export rules on firearms and ammunition. In a <u>letter last week to Commerce Secretary Wilbur Ross and Secretary of State Mike Pompeo</u>, Cotton pushed to finalize a rule that would transfer export oversight of most firearms and ammunition from the stringent control of the State Department to the more export-friendly Commerce Department. Cotton said the rule would make U.S. companies more competitive and boost manufacturing jobs. The final publication of the rule <u>has been held up</u> largely because of concerns Trump has with 3-D printed gun technology.

The Free Essential Guide to the Federal Budget Process from POLITICO Pro: To receive federal funding, federal agencies must begin developing their budgets 18 months ahead of the next fiscal year. We break down each step of the federal budget process so you can stay one step ahead. Get the full guide here.

INTERNATIONAL OVERNIGHT

- Trump imposes new sanctions on Venezuela to pressure the regime of Nicolas Maduro, Bloomberg <u>reports</u>.
- The Trump administration won't say if it will restrict the exports of tear gas and other riot-control gear to Hong Kong, the South China Morning Post <u>reports</u>.
- Farm bankruptcies are rising as Trump's trade war grinds on, The Washington Post <u>reports</u>.

— U.S. hog prices whipsawed Monday over the impact of trade tensions on China's reliance on U.S. pork imports, The Wall Street Journal reports.

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THAT'S ALL FOR MORNING TRADE! See you again soon! In the meantime, drop the team a line: abehsudi@politico.com; mcassella@politico.com; dpalmer@politico.com; srodriguez@politico.com; ilauinger@politico.com; and pjoshi@politico.com. Follow us @POLITICOPro and @Morning Trade.

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Please click here and follow the steps to unsubscribe.

From: Minarich, Christine M [MinarichCM@state.gov]

Sent: 8/6/2019 2:30:44 PM

To: Khawam, Joseph N [KhawamJN@state.gov]

Subject: FW: Cats I-III FRN

Attachments: 2018-12-13 Final Clean Commerce Cat I-III firearms rule_0694-AF47.docx; Cat I-III FR - FRN 13.docx

You may have found these already – just in case. I never got a copy of the final notice.

Official - SBU

UNCLASSIFIED

From: Monjay, Robert < MonjayR@state.gov> **Sent:** Monday, January 7, 2019 2:51 PM

To: Heidema, Sarah J < HeidemaSJ@state.gov>; Rogers, Shana A < RogersSA2@state.gov>

Cc: Minarich, Christine M < Minarich CM@state.gov>

Subject: RE: Cats I-III FRN

Official - SBU

UNCLASSIFIED

From: Heidema, Sarah J < HeidemaSJ@state.gov>

Sent: Monday, January 7, 2019 2:49 PM **To:** Rogers, Shana A < <u>RogersSA2@state.gov</u>>

Cc: Minarich, Christine M < Minarich CM@state.gov>; Monjay, Robert < Monjay R@state.gov>

Subject: RE: Cats I-III FRN

+ monjay

Official

UNCLASSIFIED

From: Rogers, Shana A < RogersSA2@state.gov>

Sent: Monday, January 7, 2019 2:48 PM

To: Heidema, Sarah J < <u>HeidemaSJ@state.gov</u>> **Cc:** Minarich, Christine M < <u>MinarichCM@state.gov</u>>

Subject: Cats I-III FRN

Hi Sarah,

Will you please send us the final notice as cleared by OMB? I'm not sure I have the latest.

Thanks,

Shana

Official

From: Khawam, Joseph N [KhawamJN@state.gov]

Sent: 8/6/2019 2:34:16 PM

To: Minarich, Christine M [MinarichCM@state.gov]

Subject: RE: Cats I-III FRN

Thanks -- I actually didn't find them yet.

Joseph N. Khawam

Office of the Legal Adviser (L/PM)

Official - SBU

UNCLASSIFIED

From: Minarich, Christine M < Minarich CM@state.gov>

Sent: Tuesday, August 6, 2019 10:31 AM

To: Khawam, Joseph N < KhawamJN@state.gov>

Subject: FW: Cats I-III FRN

You may have found these already - just in case. I never got a copy of the final notice.

Official - SBU

UNCLASSIFIED

From: Monjay, Robert < MonjayR@state.gov>
Sent: Monday, January 7, 2019 2:51 PM

To: Heidema, Sarah J < HeidemaSJ@state.gov >; Rogers, Shana A < RogersSA2@state.gov >

Cc: Minarich, Christine M < Minarich CM@state.gov>

Subject: RE: Cats I-III FRN

Official - SBU

UNCLASSIFIED

From: Heidema, Sarah J < HeidemaSJ@state.gov>

Sent: Monday, January 7, 2019 2:49 PM **To:** Rogers, Shana A < <u>RogersSA2@state.gov</u>>

Cc: Minarich, Christine M < Minarich CM@state.gov >; Monjay, Robert < Monjay R@state.gov >

Subject: RE: Cats I-III FRN

+ monjay

Official

UNCLASSIFIED

From: Rogers, Shana A < RogersSA2@state.gov>

Sent: Monday, January 7, 2019 2:48 PM

To: Heidema, Sarah J < <u>HeidemaSJ@state.gov</u>> **Cc:** Minarich, Christine M < <u>MinarichCM@state.gov</u>>

Subject: Cats I-III FRN

Case 2:20-cv-00111-RAJ Document 106-13 Filed 09/23/20 Page 271 of 378

Hi Sarah,

Will you please send us the final notice as cleared by OMB? I'm not sure I have the latest.

Thanks, Shana

Official

Case 2:20-cv-00111-RAJ Document 106-13 Filed 09/23/20 Page 272 of 378

Message

From: Koelling, Richard W [KoellingRW@state.gov]

Sent: 8/6/2019 4:55:54 PM

To: Monjay, Robert [MonjayR@state.gov]

Subject: Cats I-III

Rob, what's the latest on this rule?

Rick

Richard W. Koelling, Jr.
Deputy Director (Acting)
Office of Defense Trade Controls Policy
Department of State
202-663-2828

Official

From: Foster, John A [FosterJA2@state.gov]

Sent: 8/6/2019 5:38:07 PM

To: Hart, Robert L [HartRL@state.gov]

Subject: FW: New PM Tasker: Control Number: H20190801=003 -- Member: Cotton, Tom -- Date Due: 8/6/2019

Attachments: H20190801=003.pdf

FYSA in the event you receive any FO pushback. This tasker was sent on 8/1, but I just learned of it now. Rick said he would call to push the deadline, but I want you to be aware.

From: Koelling, Richard W < Koelling RW@state.gov>

Sent: Tuesday, August 6, 2019 1:29 PM **To:** Foster, John A <FosterJA2@state.gov>

Subject: FW: New PM Tasker: Control Number: H20190801=003 -- Member: Cotton, Tom -- Date Due: 8/6/2019

Richard W. Koelling, Jr.
Deputy Director (Acting)
Office of Defense Trade Controls Policy
Department of State
202-663-2828

Official

UNCLASSIFIED

From: PM-Staffers Mailbox < PM-StaffersMailbox@state.gov>

Sent: Thursday, August 1, 2019 1:50 PM

To: PM-DDTC- FrontOffice -Staff < PM-DDTC-FrontOffice-Staff@state.gov>

Cc: PM-Staffers Mailbox < PM-StaffersMailbox@state.gov>; Windecker, Melissa A < WindeckerMA@state.gov>; PM-CPA

<PM-CPA@state.gov>

Subject: New PM Tasker: Control Number: H20190801=003 -- Member: Cotton, Tom -- Date Due: 8/6/2019

Dear Colleagues,

Please see new PM tasker for a congressional letter.

Please submit by noon, Monday August 5.

Please follow instructions in the tasker and use proper templates.

All OpenNet taskers can be found here.

Please let us know if you have any questions.

All the Best,

Ashley MacPherson
Staff Assistant
Bureau of Political Military-Affairs
PM/FO SharePoint

From: H_CCU@state.gov <H_CCU@state.gov> Sent: Thursday, August 1, 2019 1:46 PM

To: H_CCTasking-PM < H_CCTasking-PM@state.gov>

Cc: Darrach, Tamara A < Darrach, Tamara A Darrach, Tamara A Darrach, Tamara A Darrach, Tamara Da

Subject: Control Number: H20190801=003 -- Member: Cotton, Tom -- Date Due: 8/6/2019

Congressional Correspondence - 2 day tasker: PLEASE NOTE: Style preference to be used for all written congressional correspondence: This includes avoiding the use of first person in letters. In lieu of using the term "we," please be sure to use "The Department," "The U.S. Government," "U.S. officials," or "The Administration." Drafters should use these terms, as appropriate, based on the context of what is being stated. The use of "We" in the closing paragraph is still acceptable.

Control Number: **H20190801=003**

Date Due: 8/6/2019

Actions:

• Reply for signature by Mary Elizabeth Taylor, Assistant Secretary, Legislative Affairs.

Member: Cotton, Tom

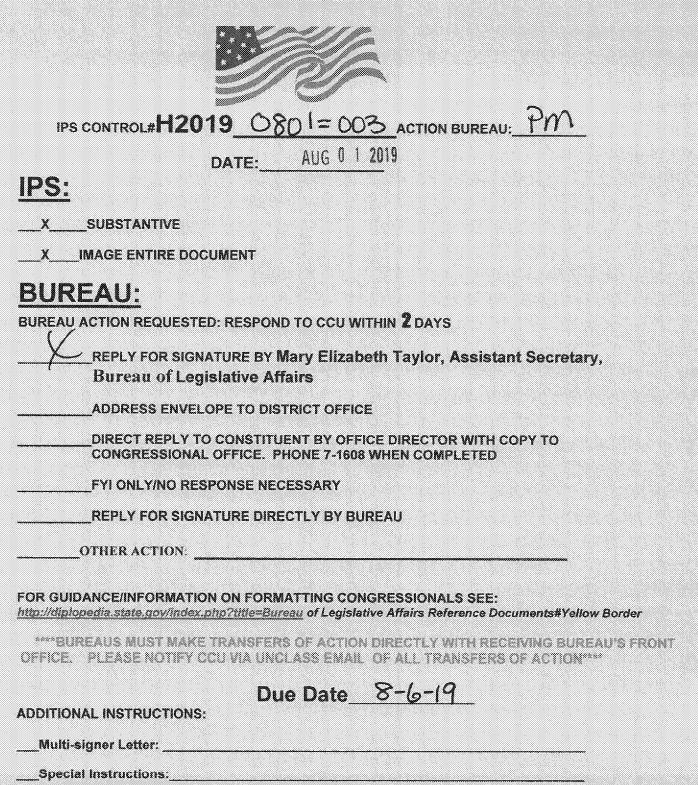
Subject: Writing to Secretary Pompeo and Commerce Secretary Ross regarding the transfer of export licensing authority for sporting and commercial firearms and ammunition products currently on Categories I, II, and III of the U.S. Munitions List (USML) from DOS to Commerce's Bureau of Industry and Security (BIS).

2 Day Tasker

- For all correspondence that will be signed by the Secretary or other Principal: Please submit a draft response under cover of a **joint action memo by H and your Bureau**. Please submit the action memo on the **classified** (high) side to the H Staffers. Also, please advise the CCU on the unclassified (low) side when the action memo has been submitted.
- The attached Substantive Correspondence is due in the Congressional Correspondence Unit (CCU) on the due
 date indicated on the tasker.
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Official

DEPARTMENT OF STATE CONGRESSIONAL CORRESPONDENCE TASKER



__EVEREST TASKER#

_Please clear with NSC prior to submission to H

	Corresponendation AUG 0 2019 by Secre Bure PM Mary Eliz	ndence tary Pomp au Bureau fo abeth Taylo	
Tasked to Post or Bureau Request for Br	lefing	_Bureau	Ly
<u>lactions:</u> -Signer letter:			
ial Glearance			
St Tasker# ial Instruction			

TOM COTTON

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United States Senate

ARMED SERVICES BANKING, HOUSING, AND DEBAN AFFAIRS

0.0548880786383

JOINT BOONGMAC COMMITTEE SELECT COMMITTEE DW MYELLIGENCE

July 31, 2019

The Honorable Michael R. Pompeo Secretary U.S. Department of State 2201 C St NW Washington, DC 20520 The Honorable Wilbur Ross Secretary U.S. Department of Commerce 1401 Constitution Ave NW Washington, DC 20230

Dear Gentlemen,

I am writing regarding the transfer of export licensing authority for sporting and commercial firearms and ammunition products currently on Categories I, II, and III of the United States Munitions List (USML) from the Department of State – Directorate of Defense Trade Controls (DDTC) to the Department of Commerce – Bureau of Industry and Security (BIS) where the products would be controlled on the Commerce Control List (CCL) and the Export Administration Regulations (EAR). I urge you both publish the new rules for this transfer as soon as is practicable.

The export of Category I, II, or III items under the CCL process is extremely important to the domestic firearms and ammunition industry, primarily because it reduces the export approval timeline. The ability to rapidly reply to international business opportunities allows U.S. companies to remain competitive in the global market and creates high-quality manufacturing jobs at home. Furthermore, some North Atlantic Trade Organization (NATO) allies have indicated a desire not to purchase small arms from U.S. vendors due to the overly burdensome process required to receive an exemption for the sale under the International Traffic in Arms Regulations (ITAR). This creates an environment where foreign countries can compete unfettered for our military small arms programs while many foreign nations are restricting US companies from competing in theirs. This regulation has not only been prohibitive for initial sales to allies but additionally creates excessively burdensome procedures for follow-on maintenance contracts.

Therefore, I am requesting the Departments of State and Commerce to publish the final rules to streamline the export licensing process in support of our domestic firearms and ammunition industry. I urge you to move forward with this process to ensure our competitiveness in the global market.

Sincerely.

Tom Cotton

United States Senator

.2014(15)(010 300 South Counce, Seine 336 Joreshoro, AR 72401 9779 935-4223 SPRINCIDACE 1108 Socre Cijo Alemanian Roma, Sorte B Sovingomor, AR 17764 (470) 751-4875 UPAE ACEX 140) Wast Carros, Avencs, Scrie 278 Letta Rock, AS 7020 1601: 223-8661 61. DORADO 106 9961 Maio Stett, Scot 410 61 Dorado, AR 11790 976 864 4882

From: Koelling, Richard W [KoellingRW@state.gov]

Sent: 8/6/2019 6:26:27 PM

To: Monjay, Robert [MonjayR@state.gov]

Subject: RE: Cats I-III

All's fine. Found the one from Jeff Kovar. Gave me what I need. Thanks.

Rick

Richard W. Koelling, Jr.
Deputy Director (Acting)
Office of Defense Trade Controls Policy
Department of State
202-663-2828

Official

UNCLASSIFIED

From: Monjay, Robert < MonjayR@state.gov> Sent: Tuesday, August 6, 2019 2:03 PM

To: Koelling, Richard W < Koelling RW@state.gov>

Subject: Re: Cats I-III

I thought that I included you, but if I forgot, Rob can forward it to you or we can

touch base tomorrow.

Robert Monjay 202-663-2817 (office) (mobile)

From: Koelling, Richard W < Koelling RW@state.gov>

Sent: Tuesday, August 6, 2019 12:55:54 PM **To:** Monjay, Robert < <u>MonjayR@state.gov</u>>

Subject: Cats I-III

Rob, what's the latest on this rule?

Rick

Richard W. Koelling, Jr.
Deputy Director (Acting)
Office of Defense Trade Controls Policy
Department of State
202-663-2828

Official

From: Minarich, Christine M [MinarichCM@state.gov]

Sent: 8/6/2019 9:43:10 PM

To: Khawam, Joseph N [KhawamJN@state.gov]

Subject: RE: Clearance Request by Noon Tomorrow: H Tasker - Sen. Cotton USML Cats. I-III Final Rule Update Request

I'll defer to you

From: Foster, John A <FosterJA2@state.gov>

Sent: Tuesday, August 6, 2019 4:46 PM

To: Hamilton, Catherine E <HamiltonCE@state.gov>; Cook, Daniel L <CookDL@state.gov>; PM-CPA <PM-CPA@state.gov>; Minarich, Christine M <MinarichCM@state.gov>; Khawam, Joseph N <KhawamJN@state.gov>

Cc: Koelling, Richard W < KoellingRW@state.gov>; Hart, Robert L < HartRL@state.gov>

Subject: Clearance Request by Noon Tomorrow: H Tasker - Sen. Cotton USML Cats. I-III Final Rule Update Request

Importance: High

Colleagues,

I am writing to request your clearance on the attached letter that seeks to respond to the attached H tasker in which Senator Cotton requests an update on the final rule regarding USML Categories I-III. In order to move this into wider clearance asap, I would appreciate your clearance NLT 12:00 PM tomorrow.

Thanks, John

John A. Foster

Office of Defense Trade Control Policy Bureau of Political-Military Affairs U.S. Department of State

Tel: 202-663-2811

Email: FosterJA2@state.gov

From: PM-Staffers Mailbox < PM-Staffers Mailbox@state.gov>

Sent: Thursday, August 1, 2019 1:50 PM

To: PM-DDTC- FrontOffice -Staff < PM-DDTC-FrontOffice-Staff@state.gov>

 $\textbf{Cc:} \ PM-Staffers \ Mailbox < \underline{PM-Staffers Mailbox@state.gov} >; \ Windecker, \ Melissa \ A < \underline{WindeckerMA@state.gov} >; \ PM-CPA = \underline{PM-Staffers Mailbox} >; \ PM-CPA = \underline{PM-Staffers Mailbo$

<PM-CPA@state.gov>

Subject: New PM Tasker: Control Number: H20190801=003 -- Member: Cotton, Tom -- Date Due: 8/6/2019

Dear Colleagues,

Please see <u>new PM tasker</u> for a congressional letter.

Please submit by noon, Monday August 5.

Please follow instructions in the tasker and use proper templates.

All OpenNet taskers can be found here.

Please let us know if you have any questions.

All the Best,

Ashley MacPherson Staff Assistant Bureau of Political Military-Affairs PM/FO SharePoint

From: H CCU@state.gov <H CCU@state.gov > Sent: Thursday, August 1, 2019 1:46 PM

To: H CCTasking-PM <H CCTasking-PM@state.gov>

Cc: Darrach, Tamara A < DarrachTA@state.gov>; H_CCU < H_CCU@state.gov>

Subject: Control Number: H20190801=003 -- Member: Cotton, Tom -- Date Due: 8/6/2019

Congressional Correspondence - 2 day tasker: PLEASE NOTE: Style preference to be used for all written congressional correspondence: This includes avoiding the use of first person in letters. In lieu of using the term "we," please be sure to use "The Department," "The U.S. Government," "U.S. officials," or "The Administration." Drafters should use these terms, as appropriate, based on the context of what is being stated. The use of "We" in the closing paragraph is still acceptable.

Control Number: **H20190801=003**

Date Due: 8/6/2019

Actions:

• Reply for signature by Mary Elizabeth Taylor, Assistant Secretary, Legislative Affairs.

Member: Cotton, Tom

Subject: Writing to Secretary Pompeo and Commerce Secretary Ross regarding the transfer of export licensing authority for sporting and commercial firearms and ammunition products currently on Categories I, II, and III of the U.S. Munitions List (USML) from DOS to Commerce's Bureau of Industry and Security (BIS).

2 Day Tasker

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Official

From: Foster, John A [FosterJA2@state.gov]

Sent: 8/7/2019 1:17:49 PM

To: Hamilton, Catherine E [HamiltonCE@state.gov]

Subject: RE: Clearance Request by Noon Tomorrow: H Tasker - Sen. Cotton USML Cats. I-III Final Rule Update Request

Many thanks, neighbor!

From: Hamilton, Catherine E < Hamilton CE@state.gov>

Sent: Wednesday, August 7, 2019 8:46 AM

To: Foster, John A <FosterJA2@state.gov>; Cook, Daniel L <CookDL@state.gov>; PM-CPA <PM-CPA@state.gov>;

Minarich, Christine M < Minarich CM@state.gov >; Khawam, Joseph N < Khawam JN@state.gov >

Cc: Koelling, Richard W < Koelling RW@state.gov>; Hart, Robert L < Hart RL@state.gov>

Subject: RE: Clearance Request by Noon Tomorrow: H Tasker - Sen. Cotton USML Cats. I-III Final Rule Update Request

Clear.

Official

UNCLASSIFIED

From: Foster, John A <FosterJA2@state.gov>

Sent: Tuesday, August 6, 2019 4:46 PM

To: Hamilton, Catherine E <HamiltonCE@state.gov>; Cook, Daniel L <CookDL@state.gov>; PM-CPA <PM-

CPA@state.gov>; Minarich, Christine M <MinarichCM@state.gov>; Khawam, Joseph N <KhawamJN@state.gov>

Cc: Koelling, Richard W < Koelling RW@state.gov>; Hart, Robert L < Hart RL@state.gov>

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Importance: High

Colleagues,

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Thanks, John

John A. Foster

Office of Defense Trade Control Policy Bureau of Political-Military Affairs

U.S. Department of State

Tel: 202-663-2811

Email: FosterJA2@state.gov

From: PM-Staffers Mailbox < PM-Staffers Mailbox@state.gov >

Sent: Thursday, August 1, 2019 1:50 PM

To: PM-DDTC- FrontOffice -Staff < PM-DDTC-FrontOffice-Staff@state.gov>

 $\textbf{Cc:} \ PM-Staffers \ Mailbox < \underline{PM-Staffers Mailbox@state.gov} >; \ Windecker, \ Melissa \ A < \underline{WindeckerMA@state.gov} >; \ PM-CPA < \underline{PM-Staffers Mailbox} >; \ PM-CPA < \underline{PM-Staffers Mailbo$

<PM-CPA@state.gov>

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Please let us know if you have any questions.

All the Best,

Ashley MacPherson Staff Assistant Bureau of Political Military-Affairs PM/FO SharePoint

From: H_CCU@state.gov <H_CCU@state.gov> Sent: Thursday, August 1, 2019 1:46 PM

To: H_CCTasking-PM < H_CCTasking-PM@state.gov>

Cc: Darrach, Tamara A < <u>DarrachTA@state.gov</u>>; H_CCU < <u>H_CCU@state.gov</u>>

Subject: Control Number: H20190801=003 -- Member: Cotton, Tom -- Date Due: 8/6/2019

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Control Number: H20190801=003

Date Due: 8/6/2019

Actions:

• Reply for signature by Mary Elizabeth Taylor, Assistant Secretary, Legislative Affairs.

Member: Cotton, Tom

Subject: Writing to Secretary Pompeo and Commerce Secretary Ross regarding the transfer of export licensing authority for sporting and commercial firearms and ammunition products currently on Categories I, II, and III of the U.S. Munitions List (USML) from DOS to Commerce's Bureau of Industry and Security (BIS).

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Case 2:20-cv-00111-RAJ Document 106-13 Filed 09/23/20 Page 283 of 378

control number plus interim plus. (e.g. H20110321=000interim.docx for substantive or 11002201interim.docx for constituent)

Official

Foster, John A [FosterJA2@state.gov] From:

Sent: 8/7/2019 1:17:35 PM

To: Carroll, Christienne [CarrollC@state.gov]

Subject: RE: Clearance Request by Noon Tomorrow: H Tasker - Sen. Cotton USML Cats. I-III Final Rule Update Request

Thanks!

From: Carroll, Christienne < CarrollC@state.gov> Sent: Wednesday, August 7, 2019 8:44 AM

To: Foster, John A <FosterJA2@state.gov>; Hamilton, Catherine E <HamiltonCE@state.gov>; Cook, Daniel L

<CookDL@state.gov>; PM-CPA <PM-CPA@state.gov>; Minarich, Christine M <MinarichCM@state.gov>; Khawam, Joseph

N < Khawam JN@state.gov>

Cc: Koelling, Richard W <KoellingRW@state.gov>; Hart, Robert L <HartRL@state.gov>

Subject: RE: Clearance Request by Noon Tomorrow: H Tasker - Sen. Cotton USML Cats. I-III Final Rule Update Request

Clear for PM/CPA.

Thanks, Christienne

Christienne Carroll

Office of Congressional & Public Affairs Bureau of Political-Military Affairs (PM/CPA) U.S. Department of State

Official

UNCLASSIFIED

From: Foster, John A < Foster JA2@state.gov>

Sent: Tuesday, August 6, 2019 4:46 PM

To: Hamilton, Catherine E < HamiltonCE@state.gov>; Cook, Daniel L < CookDL@state.gov>; PM-CPA < PM-CPA@state.gov>; Minarich, Christine M <MinarichCM@state.gov>; Khawam, Joseph N <KhawamJN@state.gov>

Cc: Koelling, Richard W <KoellingRW@state.gov>; Hart, Robert L <HartRL@state.gov>

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Importance: High

Colleagues,

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Thanks, John

John A. Foster

Office of Defense Trade Control Policy Bureau of Political-Military Affairs

U.S. Department of State

Tel: 202-663-2811

Email: FosterJA2@state.gov

From: PM-Staffers Mailbox < PM-Staffers Mailbox@state.gov >

Sent: Thursday, August 1, 2019 1:50 PM

To: PM-DDTC- FrontOffice -Staff < PM-DDTC-FrontOffice-Staff@state.gov>

Cc: PM-Staffers Mailbox <PM-StaffersMailbox@state.gov>; Windecker, Melissa A <WindeckerMA@state.gov>; PM-CPA

<PM-CPA@state.gov>

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All the Best,

Ashley MacPherson Staff Assistant Bureau of Political Military-Affairs PM/FO SharePoint

From: <u>H_CCU@state.gov</u> < <u>H_CCU@state.gov</u> > **Sent:** Thursday, August 1, 2019 1:46 PM

To: H CCTasking-PM <H CCTasking-PM@state.gov>

Cc: Darrach, Tamara A < DarrachTA@state.gov>; H_CCU < H_CCU@state.gov>

Subject: Control Number: H20190801=003 -- Member: Cotton, Tom -- Date Due: 8/6/2019

Congressional Correspondence - 2 day tasker: PLEASE NOTE: Style preference to be used for all written congressional correspondence: This includes avoiding the use of first person in letters. In lieu of using the term "we," please be sure to use "The Department," "The U.S. Government," "U.S. officials," or "The Administration." Drafters should use these terms, as appropriate, based on the context of what is being stated. The use of "We" in the closing paragraph is still acceptable.

Control Number: H20190801=003

Date Due: 8/6/2019

Actions:

• Reply for signature by Mary Elizabeth Taylor, Assistant Secretary, Legislative Affairs.

Member: Cotton, Tom

Subject: Writing to Secretary Pompeo and Commerce Secretary Ross regarding the transfer of export licensing authority for sporting and commercial firearms and ammunition products currently on Categories I, II, and III of the U.S. Munitions List (USML) from DOS to Commerce's Bureau of Industry and Security (BIS).

2 Day Tasker

• For all correspondence that will be signed by the Secretary or other Principal: Please submit a draft response under cover of a **joint action memo by H and your Bureau**. Please submit the action memo on the **classified**

Case 2:20-cv-00111-RAJ Document 106-13 Filed 09/23/20 Page 286 of 378

(high) side to the H Staffers. Also, please advise the CCU on the unclassified (low) side when the action memo has been submitted.

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 control number plus interim plus. (e.g. H20110321=000interim.docx for substantive or 11002201interim.docx for
 constituent)

Official

From: Foster, John A [FosterJA2@state.gov]

Sent: 8/7/2019 1:33:32 PM

To: Cook, Daniel L [CookDL@state.gov]

Subject: Reminder - Clearance Request by Noon Today: H Tasker - Sen. Cotton USML Cats. I-III Final Rule Update Request

Attachments: Senator Cotton (H 2018-0801-003).docx

Hi Dan,

This is a friendly reminder to please clear the attached letter by noon today. Please let me know if you have any questions about the document.

Thanks, John

From: Hamilton, Catherine E < Hamilton CE@state.gov>

Sent: Wednesday, August 7, 2019 8:46 AM

To: Foster, John A <FosterJA2@state.gov>; Cook, Daniel L <CookDL@state.gov>; PM-CPA <PM-CPA@state.gov>;

Minarich, Christine M < Minarich CM@state.gov >; Khawam, Joseph N < Khawam JN@state.gov >

Cc: Koelling, Richard W < Koelling RW@state.gov>; Hart, Robert L < Hart RL@state.gov>

Subject: RE: Clearance Request by Noon Tomorrow: H Tasker - Sen. Cotton USML Cats. I-III Final Rule Update Request

Clear.

Official

UNCLASSIFIED

From: Foster, John A < FosterJA2@state.gov > Sent: Tuesday, August 6, 2019 4:46 PM

To: Hamilton, Catherine E < <u>HamiltonCE@state.gov</u>>; Cook, Daniel L < <u>CookDL@state.gov</u>>; PM-CPA < <u>PM-CPA@state.gov</u>>; Minarich, Christine M < <u>MinarichCM@state.gov</u>>; Khawam, Joseph N < <u>KhawamJN@state.gov</u>>

Cc: Koelling, Richard W < Koelling RW@state.gov >; Hart, Robert L < Hart RL@state.gov >

Subject: Clearance Request by Noon Tomorrow: H Tasker - Sen. Cotton USML Cats. I-III Final Rule Update Request

Importance: High

Colleagues,

I am writing to request your clearance on the attached letter that seeks to respond to the attached H tasker in which Senator Cotton requests an update on the final rule regarding USML Categories I-III. In order to move this into wider clearance asap, I would appreciate your clearance NLT 12:00 PM tomorrow.

Thanks, John

John A. Foster

Office of Defense Trade Control Policy Bureau of Political-Military Affairs U.S. Department of State

Tel: 202-663-2811

Email: FosterJA2@state.gov

From: PM-Staffers Mailbox < PM-Staffers Mailbox@state.gov>

Sent: Thursday, August 1, 2019 1:50 PM

To: PM-DDTC- FrontOffice -Staff < PM-DDTC-FrontOffice-Staff@state.gov>

Cc: PM-Staffers Mailbox < PM-StaffersMailbox@state.gov >; Windecker, Melissa A < WindeckerMA@state.gov >; PM-CPA

<PM-CPA@state.gov>

Subject: New PM Tasker: Control Number: H20190801=003 -- Member: Cotton, Tom -- Date Due: 8/6/2019

Dear Colleagues,

Please see new PM tasker for a congressional letter.

Please submit by noon, Monday August 5.

Please follow instructions in the tasker and use proper templates.

All OpenNet taskers can be found here.

Please let us know if you have any questions.

All the Best,

Ashley MacPherson Staff Assistant Bureau of Political Military-Affairs PM/FO SharePoint

From: H_CCU@state.gov <H_CCU@state.gov > Sent: Thursday, August 1, 2019 1:46 PM

To: H CCTasking-PM <H CCTasking-PM@state.gov>

Cc: Darrach, Tamara A < DarrachTA@state.gov>; H_CCU < H_CCU@state.gov>

Subject: Control Number: H20190801=003 -- Member: Cotton, Tom -- Date Due: 8/6/2019

Congressional Correspondence - 2 day tasker: PLEASE NOTE: Style preference to be used for all written congressional correspondence: This includes avoiding the use of first person in letters. In lieu of using the term "we," please be sure to use "The Department," "The U.S. Government," "U.S. officials," or "The Administration." Drafters should use these terms, as appropriate, based on the context of what is being stated. The use of "We" in the closing paragraph is still acceptable.

Control Number: H20190801=003

Date Due: 8/6/2019

Actions:

Reply for signature by Mary Elizabeth Taylor, Assistant Secretary, Legislative Affairs.

Member: Cotton, Tom

Subject: Writing to Secretary Pompeo and Commerce Secretary Ross regarding the transfer of export licensing authority for sporting and commercial firearms and ammunition products currently on Categories I, II, and III of the U.S. Munitions List (USML) from DOS to Commerce's Bureau of Industry and Security (BIS).

2 Day Tasker

- For all correspondence that will be signed by the Secretary or other Principal: Please submit a draft response under cover of a **joint action memo by H and your Bureau**. Please submit the action memo on the **classified** (high) side to the H Staffers. Also, please advise the CCU on the unclassified (low) side when the action memo has been submitted.
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Case 2:20-cv-00111-RAJ Document 106-13 Filed 09/23/20 Page 289 of 378

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Official

From: Cook, Daniel L [CookDL@state.gov]

Sent: 8/7/2019 1:39:02 PM

To: Foster, John A [FosterJA2@state.gov]; Hamilton, Catherine E [HamiltonCE@state.gov]; PM-CPA [PM-

CPA@state.gov]; Minarich, Christine M [MinarichCM@state.gov]; Khawam, Joseph N [KhawamJN@state.gov]

CC: Koelling, Richard W [KoellingRW@state.gov]; Hart, Robert L [HartRL@state.gov]; Shin, Jae E [ShinJE@state.gov];

Tulino, Julia K [TulinoJK@state.gov]

Subject: RE: Clearance Request by Noon Tomorrow: H Tasker - Sen. Cotton USML Cats. I-III Final Rule Update Request

Attachments: H20190801003.pdf; Senator Cotton (H 2018-0801-003).docx

John,

Clear for DTCC.

Dan

From: Foster, John A <FosterJA2@state.gov> Sent: Tuesday, August 6, 2019 4:46 PM

To: Hamilton, Catherine E <HamiltonCE@state.gov>; Cook, Daniel L <CookDL@state.gov>; PM-CPA <PM-CPA@state.gov>; Minarich, Christine M <MinarichCM@state.gov>; Khawam, Joseph N <KhawamJN@state.gov>

Cc: Koelling, Richard W < KoellingRW@state.gov>; Hart, Robert L < HartRL@state.gov>

Subject: Clearance Request by Noon Tomorrow: H Tasker - Sen. Cotton USML Cats. I-III Final Rule Update Request

Importance: High

Colleagues,

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Thanks, John

John A. Foster

Office of Defense Trade Control Policy Bureau of Political-Military Affairs U.S. Department of State

Tel: 202-663-2811

Email: FosterJA2@state.gov

From: PM-Staffers Mailbox < PM-Staffers Mailbox@state.gov>

Sent: Thursday, August 1, 2019 1:50 PM

To: PM-DDTC- FrontOffice -Staff < PM-DDTC-FrontOffice-Staff@state.gov>

Cc: PM-Staffers Mailbox < PM-StaffersMailbox@state.gov >; Windecker, Melissa A < WindeckerMA@state.gov >; PM-CPA

<<u>PM-CPA@state.gov</u>>

Subject: New PM Tasker: Control Number: H20190801=003 -- Member: Cotton, Tom -- Date Due: 8/6/2019

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Please submit by noon, Monday August 5.

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Please let us know if you have any questions.

All the Best,

Ashley MacPherson Staff Assistant Bureau of Political Military-Affairs PM/FO SharePoint

From: H CCU@state.gov <H CCU@state.gov>
Sent: Thursday, August 1, 2019 1:46 PM

To: H_CCTasking-PM < H_CCTasking-PM@state.gov>

Cc: Darrach, Tamara A < DarrachTA@state.gov>; H_CCU < H_CCU@state.gov>

Subject: Control Number: H20190801=003 -- Member: Cotton, Tom -- Date Due: 8/6/2019

Congressional Correspondence - 2 day tasker: PLEASE NOTE: Style preference to be used for all written congressional correspondence: This includes avoiding the use of first person in letters. In lieu of using the term "we," please be sure to use "The Department," "The U.S. Government," "U.S. officials," or "The Administration." Drafters should use these terms, as appropriate, based on the context of what is being stated. The use of "We" in the closing paragraph is still acceptable.

Control Number: H20190801=003

Date Due: 8/6/2019

Actions:

Reply for signature by Mary Elizabeth Taylor, Assistant Secretary, Legislative Affairs.

Member: Cotton, Tom

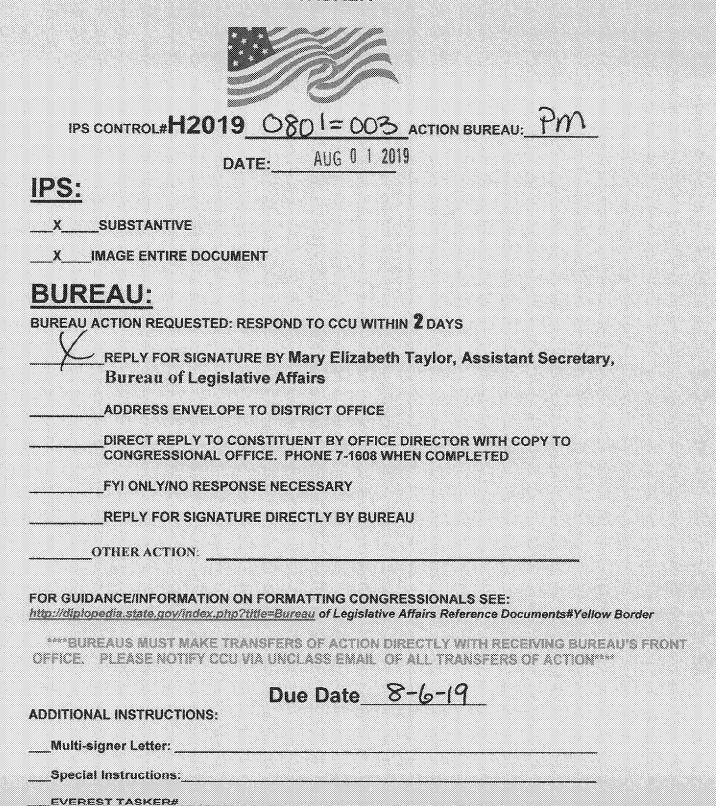
Subject: Writing to Secretary Pompeo and Commerce Secretary Ross regarding the transfer of export licensing authority for sporting and commercial firearms and ammunition products currently on Categories I, II, and III of the U.S. Munitions List (USML) from DOS to Commerce's Bureau of Industry and Security (BIS).

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- The attached Substantive Correspondence is due in the Congressional Correspondence Unit (CCU) on the due date indicated on the tasker.
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Official

DEPARTMENT OF STATE CONGRESSIONAL CORRESPONDENCE TASKER



_Please clear with NSC prior to submission to H

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TOM COTTON

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United States Senate

ARMED SERVIČES BANKING, HÖLISING, AND DEBAN AFFARES

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JOINT BOONGMIC COMMITTEE SELECT COMMITTEE DW WYELLIGENCE

July 31, 2019

The Honorable Michael R. Pompeo Secretary U.S. Department of State 2201 C St NW Washington, DC 20520 The Honorable Wilbur Ross Secretary U.S. Department of Commerce 1401 Constitution Ave NW Washington, DC 20230

25

Dear Gentlemen,

I am writing regarding the transfer of export licensing authority for sporting and commercial firearms and ammunition products currently on Categories I, II, and III of the United States Munitions List (USML) from the Department of State – Directorate of Defense Trade Controls (DDTC) to the Department of Commerce – Bureau of Industry and Security (BIS) where the products would be controlled on the Commerce Control List (CCL) and the Export Administration Regulations (EAR). I urge you both publish the new rules for this transfer as soon as is practicable.

The export of Category I, II, or III items under the CCL process is extremely important to the domestic firearms and ammunition industry, primarily because it reduces the export approval timeline. The ability to rapidly reply to international business opportunities allows U.S. companies to remain competitive in the global market and creates high-quality manufacturing jobs at home. Furthermore, some North Atlantic Trade Organization (NATO) allies have indicated a desire not to purchase small arms from U.S. vendors due to the overly burdensome process required to receive an exemption for the sale under the International Traffic in Arms Regulations (ITAR). This creates an environment where foreign countries can compete unfettered for our military small arms programs while many foreign nations are restricting US companies from competing in theirs. This regulation has not only been prohibitive for initial sales to allies but additionally creates excessively burdensome procedures for follow-on maintenance contracts.

Therefore, I am requesting the Departments of State and Commerce to publish the final rules to streamline the export licensing process in support of our domestic firearms and ammunition industry. I urge you to move forward with this process to ensure our competitiveness in the global market.

Sincerely.

Tom Cotton

United States Senator

.2014(15)(010 300 South Counce, Seine 336 Joreshoro, AR 72401 9779 935-4223

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SPERRODACE 1108 2000 OCO Abrosano Romo, Samo B Somesona, AR 17764 (470 251-0625 UPAE ACEX 140) Wast Carros, Avense, Scrie 278 Lette Acex, AS 7020 1601: 223-8601 St. DORADO 106 West Main Street, Short 410 6: Dorasio, AR 11770 976 884 4882

From: Foster, John A [FosterJA2@state.gov]

Sent: 8/7/2019 4:42:52 PM

To: Khawam, Joseph N [KhawamJN@state.gov]; Minarich, Christine M [MinarichCM@state.gov]

Subject: RE: Reminder - Clearance Request by Noon Today: H Tasker - Sen. Cotton USML Cats. I-III Final Rule Update Request

Joe,

Many thanks for the quick turn. I appreciate it.

Best, John

From: Khawam, Joseph N < KhawamJN@state.gov>

Sent: Wednesday, August 7, 2019 12:18 PM

To: Foster, John A <FosterJA2@state.gov>; Minarich, Christine M <MinarichCM@state.gov>

Subject: RE: Reminder - Clearance Request by Noon Today: H Tasker - Sen. Cotton USML Cats. I-III Final Rule Update

Request

Thanks, John. Clear for L/PM with attached edits. Happy to discuss further.

Joseph N. Khawam

Office of the Legal Adviser (L/PM)

From: Foster, John A < FosterJA2@state.gov > Sent: Wednesday, August 7, 2019 9:34 AM

To: Minarich, Christine M <MinarichCM@state.gov>; Khawam, Joseph N <KhawamJN@state.gov>

Subject: Reminder - Clearance Request by Noon Today: H Tasker - Sen. Cotton USML Cats. I-III Final Rule Update Request

Christine and/or Joe,

This is a friendly reminder to please clear the attached letter by noon today. I am happy to drop your office to discuss any issues.

Thanks, John

From: Hamilton, Catherine E < Hamilton CE@state.gov>

Sent: Wednesday, August 7, 2019 8:46 AM

To: Foster, John A <FosterJA2@state.gov>; Cook, Daniel L <CookDL@state.gov>; PM-CPA <PM-CPA@state.gov>;

Minarich, Christine M < Minarich CM@state.gov >; Khawam, Joseph N < Khawam JN@state.gov >

Cc: Koelling, Richard W < Koelling RW@state.gov >; Hart, Robert L < Hart RL@state.gov >

Subject: RE: Clearance Request by Noon Tomorrow: H Tasker - Sen. Cotton USML Cats. I-III Final Rule Update Request

Clear.

Official

From: Foster, John A < FosterJA2@state.gov > Sent: Tuesday, August 6, 2019 4:46 PM

To: Hamilton, Catherine E < <u>HamiltonCE@state.gov</u>>; Cook, Daniel L < <u>CookDL@state.gov</u>>; PM-CPA < <u>PM-CPA@state.gov</u>>; Minarich, Christine M < <u>MinarichCM@state.gov</u>>; Khawam, Joseph N < <u>KhawamJN@state.gov</u>>

Cc: Koelling, Richard W < Koelling RW@state.gov >; Hart, Robert L < Hart RL@state.gov >

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Sent: Thursday, August 1, 2019 1:50 PM

To: PM-DDTC- FrontOffice -Staff < PM-DDTC-FrontOffice-Staff@state.gov>

Cc: PM-Staffers Mailbox < PM-StaffersMailbox@state.gov >; Windecker, Melissa A < WindeckerMA@state.gov >; PM-CPA

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Please let us know if you have any questions.

All the Best,

Ashley MacPherson
Staff Assistant
Bureau of Political Military-Affairs
PM/FO SharePoint

Case 2:20-cv-00111-RAJ Document 106-13 Filed 09/23/20 Page 298 of 378

From: H CCU@state.gov <H CCU@state.gov > Sent: Thursday, August 1, 2019 1:46 PM

To: H_CCTasking-PM < H_CCTasking-PM@state.gov>

Cc: Darrach, Tamara A < DarrachTA@state.gov>; H CCU < H CCU@state.gov>

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Control Number: H20190801=003

Date Due: 8/6/2019

Actions:

• Reply for signature by Mary Elizabeth Taylor, Assistant Secretary, Legislative Affairs.

Member: Cotton, Tom

Subject: Writing to Secretary Pompeo and Commerce Secretary Ross regarding the transfer of export licensing authority for sporting and commercial firearms and ammunition products currently on Categories I, II, and III of the U.S. Munitions List (USML) from DOS to Commerce's Bureau of Industry and Security (BIS).

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Official

Case 2:20-cv-00111-RAJ Document 106-13 Filed 09/23/20 Page 299 of 378

Message

From: Minarich, Christine M [MinarichCM@state.gov]

Sent: 8/8/2019 5:20:21 PM

To: Khawam, Joseph N [KhawamJN@state.gov]

Subject: FW: CAT I-III and 3-D issue

Attachments:

.pdf; _____ldocx

Here's the first of a few emails I'll forward

Official - SBU (Deliberative Process)

UNCLASSIFIED

From: Abraham, Liz (Federal) <LAbraham@doc.gov>

Sent: Thursday, February 21, 2019 4:57 PM

To: Rogers, Shana A <RogersSA2@state.gov>; Minarich, Christine M <MinarichCM@state.gov>

Subject: CAT I-III and 3-D issue

Thanks,

Liz

Confidentiality Notice: This e-mail message is intended only for the named recipients. It contains information that may be confidential, privileged, attorney work product, or otherwise exempt from disclosure under applicable law. If you have received this message in error, are not a named recipient, or are not the employee or agent responsible for delivering this message to a named recipient, be advised that any review, disclosure, use, dissemination, distribution, or reproduction of this message or its contents is strictly prohibited. Please notify us immediately that you have received this message in error, and delete the message.

From: Strike, Andrew P [StrikeAP@state.gov]

Sent: 8/11/2019 5:29:47 PM

To: PM-DDTC-Directors-DL [PM-DDTC-Directors-DL@state.gov]; Legal-PM-DL [Legal-PM-DL@state.gov]

CC: PM-CPA [PM-CPA@state.gov]

Subject: CPA Media Monitoring: Ars Technica: DEFDIST: ONE YEAR LATER — At Defense Distributed, few glimpses of life after

Cody Wilson

It's been nearly a year since 3D-printed firearms activist Cody Wilson was <u>arrested for the alleged sexual assault of a female minor</u>. Yesterday, he appeared in an Austin, Texas courtroom and <u>plead guilty to lesser charges</u> that will likely see Wilson register as a sex offender and serve multiple years probation. He won't be able to possess any firearms and must consent to keystroke/remote monitoring during that time.

FURTHER READING

Cody Wilson pleads guilty to lesser charge, will register as sex offender

But long before Wilson's plead, his situation quickly prompted an unexpected change in leadership at Defense Distributed, the now-infamous Austin, Texas-based digital printing and firearms company he started in 2012. News of an arrest warrant for Wilson came on <u>September 19, 2018</u>, and <u>Paloma Heindorff was named the company's new director less than a week later on September 25.</u>

At the time, Heindorff stated that Wilson would no longer have any involvement with the company. She also promised business would continue on as normal and that she would likely take a different approach publicly than her outspoken, interview-friendly predecessor.

Ars called Defense Distributed this week to see if the company would provide an update on things in the year post-Wilson. Could Defense Distributed at least share any updated figures on sales or fundraising from the last year? The last available data on those topics came during Heindorff's introductory press conference, when she mentioned the Defense Distributed legal fund had eclipsed \$400,000 and that the company had sold 3,000 Ghost Gunner milling machines (that, at roughly \$1,500 each, would've provided about \$4.5 million in revenue).

But Stephen Sheftall, who handles sales communication at the company among his duties, said the company had no use for media at this time and wouldn't be doing any interviews in the foreseeable future. Heindorff, however, has done at least one extended interview since settling into her new role. Back in February, Reason.com sat down with Heindorff about four months into her tenure.

FURTHER READING

Cody Wilson was Defense Distributed—so who is the organization's new leader?

"I'm not going to say it was the best promotion I've ever got, but from a business standpoint we've done incredibly well—minimal disruptions to the daily operations," she said. "Cody's departure has affected us less than people think, and I understand why people would think it would be chaos. He was incredibly powerful figurehead. But there are quite a bit of us working back there. It's been more of a personal effect than, 'Oh, now we can't run the company.' The company is doing just fine."

Court cases: One onto appeals, another slowly moves

Even if Defense Distributed hasn't been doing as much direct press, there have been some notable public happenings involving the company during Heindorff's first year at the helm. For starters, Defense Distributed has continued its legal efforts revolving around the online distribution of 3D-printed gun CAD files. While several states took action against untraceable, self-milled or printed "ghost guns" in 2018, Defense Distributed brought its own case called *Defense Distributed v. Grewal* (the attorney general of New Jersey is Gurbir Grewal), which had its day in court back in January. The case centered on a newly enacted state law, <u>SB2465</u>, aimed at regulating "ghost guns" and the promotion or distribution of related files online. Such laws led to Defense Distributed and similar companies taking down gun milling and printing information from their websites. (In Defense Distributed's case, the company instead continues to offer this info for sale <u>via a USB stick</u> to eligible customers.)

FURTHER READING

"Ghost guns," underage sex, and the First Amendment: Defense Distributed's legal saga
Ultimately, the case was dismissed in February, though the judge made that decision based on jurisdiction rather than the merits of the case. But less than two weeks later, the New Jersey AG revealed one of the documents that led to the case initially being heard had been faked by an IP address in Slovakia.

Case 2:20-cv-00111-RAJ Document 106-13 Filed 09/23/20 Page 301 of 378

"It's really the info they're trying to stifle, otherwise they would've written different laws," Heindorff told Reason.com when asked to reflect on the state battles around that time. "How disrespectful to one's subjects, I'll call them. The general [populace] cannot be trusted with this info."

After the case's dismissal, a New Jersey judge eventually also <u>denied Defense Distributed's motion to seek an injunction</u> (PDF) for the law pending an appeal. As the company revealed on its <u>Legio blog in April</u>, Defense Distributed is now appealing *Defense Distributed v. Grewal* in the Third Circuit Court of Appeals. Initial filings have been made, but there are no upcoming court dates currently scheduled.

Defense Distributed v. Grewal was not Defense Distributed's only legal crusade, however. In fact, that was entirely separate from perhaps the more wide-reaching legal case, State of Washington v. Department of State. In this, Washington alongside several other states pursued legal action initially because they believed that, when the Department of Justice settled its five-year legal battle with Defense Distributed in July 2018 and allowed the CAD files in question to be reposted online, that action violated the Constitution. But in a November 2018 filing, government lawyers for the defense explained that rule changes being considered by the State Department at the time would make any legal conflicts in Washington moot.

FURTHER READING

3D-printed (and CNC-milled) guns: Nine questions you were too afraid to ask

By February 2019, US District Judge Robert Lasnik got tired of waiting. He <u>denied</u>the Department of State's motion to stay the case and allowed the proceedings to move forward. The plaintiffs soon filed a <u>motion for summary judgment</u> that month, and the two sides have gone back and forth on timelines and submitting supporting documents in either direction since. One of the defendants' main arguments, as outlined in <u>a June filing</u>, seems to be the states' lack of "traceability and redressability"—essentially, the fact that these files are now out there and can't be taken offline makes this litigation moot in their view. Motions from both sides were delivered by early June, but there is no public timetable for the case's next steps.

<u>Enlarge</u> / r/defense_distributed no longer exists as of summer 2019. Previously, Defense Distributed employees and customers used the forum to interact, and 3D-printing gun enthusiasts would share tips, videos, and more.

Reddit

Out of court, pressure from Big Tech and Congress

During Heindorff's young tenure, Defense Distributed has also faced increased pressure outside of the courts from big tech companies. This summer, <u>Facebook seemed to clarify</u> that "A Page representing a real brick-and-mortar store, legitimate website or brand" could promote 3D-printed firearms "only for sale off of our services and as long as those retailers comply with all applicable laws and regulations." But <u>currently</u>, Facebook company policy also states that "3D gun printing files or instructions to manufacture firearms using 3D printers or CNC milling machines, including links to websites where such files or instructions are made available, may not be shared by anyone" on Mark Zuckerberg's giant social media platform. Defense Distributed does not maintain an official brand page on the platform, and <u>private groups</u> that have popped up for Defense Distributed customers typically explicitly ask members to avoid posting "DEFCAD OR OTHER LINKS!"

A NEW SIDE HUSTLE?

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https://arstechnica.com/tech-policy/2019/08/at-defense-distributed-there-have-been-few-glimpses-of-life-after-cody-wilson/

From: Koelling, Richard W [KoellingRW@state.gov]

Sent: 8/12/2019 11:30:48 AM

To: PM-DTCP-RAA [PM-DTCP-RAA@state.gov]; Memos, Nicholas [MemosNI@state.gov]; Hart, Robert L

[HartRL@state.gov]; Monjay, Robert [MonjayR@state.gov]

Subject: FW: CPA Media Monitoring: Ars Technica: DEFDIST: ONE YEAR LATER — At Defense Distributed, few glimpses of life

after Cody Wilson

For those who have not kept up with the latest on Cody Wilson, Defense Distributed, and 3-D printing of firearms.

Several references to DOS and its legal battles.

Rick

Richard W. Koelling, Jr.
Deputy Director (Acting)
Office of Defense Trade Controls Policy
Department of State
202-663-2828

From: Strike, Andrew P < StrikeAP@state.gov> Sent: Sunday, August 11, 2019 1:30 PM

To: PM-DDTC-Directors-DL < PM-DDTC-Directors-DL@state.gov>; Legal-PM-DL < Legal-PM-DL@state.gov>

Cc: PM-CPA < PM-CPA@state.gov>

Subject: CPA Media Monitoring: Ars Technica: DEFDIST: ONE YEAR LATER — At Defense Distributed, few glimpses of life

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FURTHER READING

Cody Wilson pleads guilty to lesser charge, will register as sex offender

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FURTHER READING

Cody Wilson was Defense Distributed—so who is the organization's new leader?

"I'm not going to say it was the best promotion I've ever got, but from a business standpoint we've done incredibly well—minimal disruptions to the daily operations," she said. "Cody's departure has affected us less than people think, and I understand why people would think it would be chaos. He was incredibly powerful figurehead. But there are quite a bit of us working back there. It's been more of a personal effect than, 'Oh, now we can't run the company.' The company is doing just fine."

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FURTHER READING

"Ghost guns," underage sex, and the First Amendment: Defense Distributed's legal saga
Ultimately, the case was dismissed in February, though the judge made that decision based on jurisdiction rather than the merits of the case. But less than two weeks later, the New Jersey AG revealed one of the documents that led to the case initially being heard had been faked by an IP address in Slovakia.
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FURTHER READING

3D-printed (and CNC-milled) guns: Nine questions you were too afraid to ask

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<u>Enlarge</u> / r/defense_distributed no longer exists as of summer 2019. Previously, Defense Distributed employees and customers used the forum to interact, and 3D-printing gun enthusiasts would share tips, videos, and more.

Reddit

Out of court, pressure from Big Tech and Congress

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Official

From: Marquis, Matthew R [MarquisMR@state.gov]

Sent: 8/12/2019 8:15:06 PM

To: PM-DTCP-Tasking-DL [PM-DTCP-Tasking-DL@state.gov]; Legal-PM-DL [Legal-PM-DL@state.gov]

CC: PM-CPA [PM-CPA@state.gov]; Miller, Michael F [Millermf@state.gov]

Subject: CPA Media Monitoring: Ars Technica: At Defense Distributed, few glimpses of life after Cody Wilson



At Defense Distributed, few glimpses of life after Cody Wilson By Nathan Mattise 10 August 2019

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Matthew Marquis

Office of Congressional & Public Affairs Bureau of Political-Military Affairs (PM/CPA) U.S. Department of State

Phone: 202.647.6968

e-mail: MarquisMR@state.gov | Web: PM Homepage | Twitter: @StateDeptPM

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Official

From: Koelling, Richard W [KoellingRW@state.gov]

Sent: 8/13/2019 11:17:39 AM

To: PM-DTCP-RAA [PM-DTCP-RAA@state.gov]
Subject: FW: CPA MEDIA MONITORING: 12 August 2019

More on Cody Wilson and Vietnam's navy, to name a few ...

Rick

Richard W. Koelling, Jr.
Deputy Director (Acting)
Office of Defense Trade Controls Policy
Department of State
202-663-2828

Official

UNCLASSIFIED

From: Marquis, Matthew R < MarquisMR@state.gov>

Sent: Monday, August 12, 2019 4:45 PM

To: MacPherson, Ashley N < MacPhersonAN@state.gov>; Windecker, Melissa A < WindeckerMA@state.gov>; PM-

Strategy < PM-Strategy@state.gov>

Cc: PM-CPA <PM-CPA@state.gov>; Brown, Stanley L <BrownSL@state.gov>; O'Keefe, Kevin P <OKeefeKP@state.gov>; Miller, Michael F <Millermf@state.gov>; Mak, Daniella <MakD@state.gov>; Dudding, Maria <DuddingM@state.gov>;

Nute, Kathryn M <NuteKM3@state.gov>; McVerry, James <James.Mcverry.ctr@dla.mil>; Phalen, Susan A <PhalenSA@state.gov>; PM-Directors <PM-Directors@state.gov>; PM-Deputy-Directors <PM-Deputy-

Directors@state.gov>; Cooper, R. Clarke < CooperRC@state.gov>

Subject: CPA MEDIA MONITORING: 12 August 2019



Alerts for 12 August 2019

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"Security Assistance: U.S. Agencies Should Improve Oversight of Human Rights Training for Foreign Security Forces", GAO is making three recommendations, including that the Secretary of Defense establish a process to systematically track mandated human rights training and develop a timeline for implementing monitoring and evaluation. DOD agreed. GAO also recommends that the Secretary of State develop a plan with a timeline to monitor and evaluate such training. State disagreed. GAO continues to believe the recommendation is valid as discussed in the report.

"Blast at Iraq weapons depot injures 13, cause unclear", The base houses a weapons depot for the Iraqi federal police and the mainly Shiite militias known as the Popular Mobilization Forces. The state-sanctioned PMF

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militias, which also receive backing from Iran, have fought alongside Iraq's regular armed forces against the Islamic State group.

"US-Sri Lanka military negotiations hit a roadblock", In some ultranationalist quarters there is fear that a new agreement will pave the way for Washington to set up military bases. Lawyers opposed to the deal have raised the alarm of U.S. troops enjoying extraterritoriality. Media commentators have questioned provisions for private military contractors from the U.S. being given diplomatic immunity.

"India's Move in Kashmir: Unpacking the Domestic and International Motivations and Implications", In response, China and Pakistan have been swift to mobilize in opposition. The United States, which was unaware of the move, has largely seen it as an internal matter but has stated that it will continue to monitor the human rights situation.

"Turkish sailors kidnapped off coast of Nigeria are released, reports say", Ten Turkish sailors who were kidnapped last month off the coast of West Africa have been released, according to reports in Turkish state media.

"White House Targets Foreign Aid Cash With Caps Limiting Spending", Pressure from Congress and Secretary of State Michael Pompeo led the Office of Management and Budget to lift a freeze on about \$4 billion imposed Aug. 3. Now the administration is trying a different tack: limiting spending to 2% of unobligated funds per day, and then asking Congress by Aug. 20 to cancel the unspent money, according to the people, who asked not to be identified discussing private deliberations.

"A Long-Dormant African Conflict Draws Unusual White House Spotlight", Mr. Bolton is putting the weight of the White House behind a contentious plan to resolve the Western Sahara conflict by turning the screws on the U.N. and trying to force the rival parties to cut a deal.

"As China Looms, Vietnam Aims to Develop a More Modern, Skilled Navy", The Southeast Asian country acquired six U.S. patrol boats this year. It normally taps Russia for weaponry, such as missile stealth frigates, Hiebert said. Washington may eventually push to send its aircraft carriers to Vietnam once a year, Thayer said. The U.S. government has been massing allies in Asia over the past two years to help contain China's maritime expansion.

"US threatens to pull out troops stationed in Germany in row over defence spending", Georgette Mosbacher, the American ambassador in Warsaw, made clear that US has other options when she called for the troops in Germany to be transferred to Poland. "Poland meets its 2% of GDP spending obligation towards Nato. Germany does not. We would welcome American troops in Germany to come to Poland," Ms Mosbacher wrote on Twitter.

"Army failure to prepare training could impact North Africa efforts", The Defense Department "has tried to force partner nations to adapt to the [department's] abilities instead of strengthening the partner's abilities. This approach has resulted in the partner nation reverting to its own practices after the RAF leaves."

"Over 20 US senators join campaign to fund Karabakh demining program", The Senate letter, spearheaded by Senator Menendez (D-NJ)—the Ranking Democrat on the Senate Foreign Relations Committee –encourages USAID Administrator Mark Green to reverse course and continue US funding for the Artsakh (Nagorno Karabakh) demining program.

<u>"US/Africa military exercise due next week"</u>, This will be held under the theme "Partnership for Peace and Stability" with the aim of improving operational planning and mission command capabilities with a focus on peacekeeping operations.

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- <u>"Turkey says US delegation begins work on Syria safe zone"</u>, Ankara seeks to push out U.S.-allied Syrian Kurdish militias from border areas inside Syria, considering them terrorists aligned with a Kurdish insurgency in Turkey. These Syrian Kurdish forces are allied with the U.S., and had fought the Islamic State group in the area.
- "Trump team turns to overlooked countries to blunt China's cruise missile threat", China's emergence as a major rival has heightened the importance of U.S. allies around the world, including those with capital cities the size of a small town in rural America. Pompeo's visit highlighted the administration's effort to prevent China from gaining the ability to win a shootout with the United States in a critical part of the world.
- <u>"U.S. missile shield site in Poland taking shape"</u>, Naval Support Facility Redzikowo is a tangible demonstration of the U.S. commitment to collective security in Europe. It is the Navy's newest installation, the first U.S. installation in Poland and is co-located with the Redzikowo Force Protection Battalion at the Redzikowo Military Base.
- "US lets advanced combat tech come to Taipei expo", The US government has approved an export license for an advanced targeting tool, used to identify targets and guide bombs, so that a live demonstration can be given at the Taipei Aerospace and Defense Technology Exhibition, a government source said yesterday.
- "Australia to spend \$340 million on special forces capability", The government said Australia's spending on defense would reach 2% of gross domestic product (GDP) by the fiscal year ending June 2021 which U.S. President Donald Trump has said should be the spending goal for NATO alliance members.
- "Venezuela's Guaido says government plans to dissolve opposition-run legislature", Guaido, who is also head of congress, said the decision would be made on Monday by the all-powerful Constituent Assembly a parallel legislature controlled by the ruling Socialist Party and could involve more arrests of legislators.
- <u>"F-16s replaced, not redundant, says Defence"</u>, The F-16 will be replaced during the next decade by 34 new US Lockheed Martin F-35s. Although the F-16s only have a 10-year life expectancy, the Air Force wants the aircraft to remain at their best to carry out their specific tasks.
- <u>"Israeli Election Politics Slowing IAF Acquisitions"</u>, What complicates the already messy situation, is the IAF's clear need for the Bell-Boeing V-22 in addition to a new heavy helicopter. The Israeli Defense Forces (IDF) ground forces command want an immediate replacement for the CH-53.
- "'Russians" threatening Dutch F-16 pilots' family", The partners of Dutch fighter pilots who were active in Latvia, Estonia and Lithuania in 2017, were harassed at home during this period. They received repeated, unpleasant phone calls from people with a Russian accent who asked whether their men should not rather leave the area, among other things, the Telegraaf reports.
- "Bulgaria transfers full amount for purchase of F-16 aircraft and associated equipment and weapons", The Bulgarian Department of Defence has transferred the entire amount of USD 1.2 billion under the international government procurement contracts for the purchase of eight F-16 Block 70 aircraft and associated equipment and weapons, the Ministry of Defence said in a press release.
- <u>"The Real Cost of Ejecting Turkey From the F-35 Program"</u>, In the final analysis, the wider picture is clear: The loss of trust between the United States and Turkey is real and will be hard to soon reestablish in any substantive form. The question of whether the S-400s will actually be operational still stands, however.
- <u>"If China crushes Hong Kong, is Taiwan next?"</u>, At a time when American reliability is being questioned around the world, signaling uncertainty about America's ability to defend Taiwan would further undermine Washington's standing as a credible ally, especially in East Asia.

<u>"Syrian army takes strategic town from rebels in new advance"</u>, The capture of al-Hobeit represents the most significant advance the army has made in Idlib province since the start of its offensive three months ago, the Britain-based Syrian Observatory for Human Rights said.

"Feature: 5 years after IS atrocities, young Yazidis team up to clear explosive hazards in northern Iraq", Through a project by the UN Mine Action Service (UNMAS), young men and women from the ravaged Yazidi community have teamed up to take the matter into their own hands and clear explosive hazards from Sinjar and the surrounding villages in the northern province of Nineveh.

"Greek Navy plays catch-up with Turkey in naval development", The Greek Navy is also making efforts to strengthen its naval air force. In May, it reactivated a P-3 maritime patrol aircraft with the help of American defence giant Lockheed Martin as an interim solution. Lockheed Martin has also been given the task of modernising the other aircraft in the Greek fleet. Last month the U.S. State Department cleared a possible \$600 million foreign military sale of seven MH-60R Seahawk multi-purpose helicopters to Athens.

"As top allies scale back in Yemen, Saudi Arabia faces prospect of an unwinnable war", The U.S. expects the Saudis to press President Trump for added military assistance to make up for the UAE's withdrawal, said a senior U.S. official, who was not named because the official was not authorized to discuss internal assessments publicly.

"Caught in the middle of a clash of giants", Australia is caught in a conflict beyond its control with events moving dangerously fast. The Morrison government rightly declares our US alliance is "more vital than ever" — to balance the rise of China — yet Donald Trump's economic warfare against Xi Jinping's China threatens to drive a wedge between Australian and American national economic interests.

"Bolton urges S. Korea to cough up \$4.8b as cost-sharing for US troops: report", When Bolton met South Korean National Security Office Director Chung Eui-yong on July 28, he showed a statement with details of the US spending for stationing 28,500 soldiers here, including training fees and wages for overseas dispatch of military forces, which totaled \$4.8 billion per year.

"Russia's Next Challenge: A Tough Ukrainian Military That Can Fight?", With the assistance of U.S. and NATO military advisors, Ukraine has made significant strides in addressing the latter problem over the past several years; though much remains to be done, Ukraine's army is slowly taking the shape of a centralized professional fighting force.

"Lawmakers Urge DoD to Expand F-35 Foreign Military Sales", In a letter sent to Defense Secretary Mark Esper this week, Republican Sens. Marco Rubio of Florida and Pat Toomey of Pennsylvania said the U.S. would benefit by having more F-35s on flight lines around the world.

Matthew Marquis

Office of Congressional & Public Affairs Bureau of Political-Military Affairs (PM/CPA) U.S. Department of State

Phone: 202.647.6968

e-mail: MarquisMR@state.gov | Web: PM Homepage |Twitter: @StateDeptPM

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Official UNCLASSIFIED

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Message

From: Robert Bowman [robert@bowman.org]

Sent: 8/20/2019 6:07:43 AM **To**: monjayr@state.gov

Subject: Status

Hello, can you tell me what is the status of RIN: 1400-AE30 which is the changes to categories I, II & III essentially removing civilian firearm mfgs from having to register annually with ITAR?

Thanks,

Rob

From: Foster, John A [FosterJA2@state.gov]

Sent: 8/20/2019 6:35:10 PM

To: Koelling, Richard W [KoellingRW@state.gov]; Khawam, Joseph N [KhawamJN@state.gov]

CC: PM-DTCP-RMA [PM-DTCP-RMA@state.gov]

Subject: Fwd: Control Number: H20190801=003 -- Member: Cotton, Tom -- Date Due: 8/23/2019

Rick and Joe,



Thanks,

John

Get Outlook for iOS

From: Paul, Joshua M <PaulJM@state.gov>

Sent: Tuesday, August 20, 2019 1:44 PM

To: PM-DTCP-RMA; PM-CPA

Subject: FW: Control Number: H20190801=003 -- Member: Cotton, Tom -- Date Due: 8/23/2019

FYSA.

Official

UNCLASSIFIED

From: Paul, Joshua M

Sent: Tuesday, August 20, 2019 1:41 PM

To: H_CCU@state.gov; H_CCTasking-PM <H_CCTasking-PM@state.gov>

Cc: Darrach, Tamara A < DarrachTA@state.gov>

Subject: RE: Control Number: H20190801=003 -- Member: Cotton, Tom -- Date Due: 8/23/2019

Hi - I would like to discuss with HPDAS

From: H CCU@state.gov < H CCU@state.gov >

Sent: Tuesday, August 20, 2019 1:39 PM

To: H_CCTasking-PM < H_CCTasking-PM@state.gov>

Cc: Darrach, Tamara A < DarrachTA@state.gov>

Subject: Control Number: H20190801=003 -- Member: Cotton, Tom -- Date Due: 8/23/2019

The response was returned via separate email. Per the HPDAS

Control Number: H20190801=003

Date Due: 8/6/2019

Actions:

• Reply for signature by Mary Elizabeth Taylor, Assistant Secretary, Legislative Affairs.

Member: Cotton, Tom

Subject: Writing to Secretary Pompeo and Commerce Secretary Ross regarding the transfer of export licensing authority for sporting and commercial firearms and ammunition products currently on Categories I, II, and III of the U.S. Munitions List (USML) from DOS to Commerce's Bureau of Industry and Security (BIS).

2 Day Tasker

- For all correspondence that will be signed by the Secretary or other Principal: Please submit a draft response
 under cover of ajoint action memo by H and your Bureau. Please submit the action memo on theclassified
 (high) side to the H Staffers. Also, please advise the CCU on the unclassified (low) side when the action memo
 has been submitted.
- The attached Substantive Correspondence is due in the Congressional Correspondence Unit (CCU) on the due
 date indicated on the tasker.
- Document Requests: All request for DOS documents require an interim response to the Member within 2 days of the official tasker. The interim response acknowledges receipt of the request and advises that a search for the requested information has begun. All responsive documents must be cleared for release by P via action memo.
- All Unclassified responses to congressional inquiries should be submitted to the CCU on OpenNet, as a word document, named using the H Control Number (e.g. H20110321=000.docx for substantive or 11002201.docx for constituent). In the case of interim responses use the control number plus interim plus. (e.g. H20110321=000interim.docx for substantive or 11002201interim.docx for constituent)
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 mail box, as a word document, named using the H Control Number (e.g.
 H20110321=000.docx for substantive or 11002201.docx for constituent). In the case of interim responses use the

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control number plus interim plus. (e.g. H20110321=000interim.docx for substantive or 11002201interim.docx for constituent)

Official

From: Koelling, Richard W [KoellingRW@state.gov]

Sent: 8/20/2019 7:00:50 PM

To: Paul, Joshua M [PaulJM@state.gov]
CC: PM-CPA [PM-CPA@state.gov]

Subject: FW: Control Number: H20190801=003 -- Member: Cotton, Tom -- Date Due: 8/23/2019

Josh,

Let me know from our end how you propose pursuing this and what you need from us.

Glad to have you back. Like the beard.

Rick

Richard W. Koelling, Jr.
Deputy Director (Acting)
Office of Defense Trade Controls Policy
Department of State
202-663-2828

Official

UNCLASSIFIED

From: Foster, John A <FosterJA2@state.gov> Sent: Tuesday, August 20, 2019 2:35 PM

To: Koelling, Richard W <KoellingRW@state.gov>; Khawam, Joseph N <KhawamJN@state.gov>

Cc: PM-DTCP-RMA < PM-DTCP-RMA@state.gov>

Subject: Fwd: Control Number: H20190801=003 -- Member: Cotton, Tom -- Date Due: 8/23/2019

Rick and Joe,



Thanks,

John

Get Outlook for iOS

From: Paul, Joshua M < PaulJM@state.gov>

Sent: Tuesday, August 20, 2019 1:44 PM

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To: PM-DTCP-RMA; PM-CPA

Subject: FW: Control Number: H20190801=003 -- Member: Cotton, Tom -- Date Due: 8/23/2019

FYSA.

Official

UNCLASSIFIED

From: Paul, Joshua M

Sent: Tuesday, August 20, 2019 1:41 PM

To: H CCU@state.gov; H_CCTasking-PM < H CCTasking-PM@state.gov>

Cc: Darrach, Tamara A < DarrachTA@state.gov>

Subject: RE: Control Number: H20190801=003 -- Member: Cotton, Tom -- Date Due: 8/23/2019

Hi - I would like to discuss with HPDAS

From:H_CCU@state.gov <H_CCU@state.gov>

Sent: Tuesday, August 20, 2019 1:39 PM

To: H_CCTasking-PM <H_CCTasking-PM@state.gov>

Cc: Darrach, Tamara A < DarrachTA@state.gov>

Subject: Control Number: H20190801=003 -- Member: Cotton, Tom -- Date Due: 8/23/2019

The response was returned via separate email. Per the HPDAS

Control Number: **H20190801=003**

Date Due: 8/6/2019

Actions:

Reply for signature by Mary Elizabeth Taylor, Assistant Secretary, Legislative Affairs.

Member: Cotton, Tom

Subject: Writing to Secretary Pompeo and Commerce Secretary Ross regarding the transfer of export licensing authority for sporting and commercial firearms and ammunition products currently on Categories I, II, and III of the U.S. Munitions List (USML) from DOS to Commerce's Bureau of Industry and Security (BIS).

2 Day Tasker

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- For all correspondence that will be signed by the Secretary or other Principal: Please submit a draft response under cover of ajoint action memo by H and your Bureau. Please submit the action memo on the classified (high) side to the H Staffers. Also, please advise the CCU on the unclassified (low) side when the action memo has been submitted.
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Official

From: Koelling, Richard W [KoellingRW@state.gov]

Sent: 8/20/2019 7:10:13 PM

To: Khawam, Joseph N [KhawamJN@state.gov]; Foster, John A [FosterJA2@state.gov]

CC: PM-DTCP-RMA [PM-DTCP-RMA@state.gov]

Subject: RE: Control Number: H20190801=003 -- Member: Cotton, Tom -- Date Due: 8/23/2019

Joe, absolutely.

Reach out already transmitted.

Best,

Rick

Richard W. Koelling, Jr.
Deputy Director (Acting)
Office of Defense Trade Controls Policy
Department of State
202-663-2828

Official

UNCLASSIFIED

From: Khawam, Joseph N < KhawamJN@state.gov>

Sent: Tuesday, August 20, 2019 3:03 PM

To: Foster, John A <FosterJA2@state.gov>; Koelling, Richard W <KoellingRW@state.gov>

Cc: PM-DTCP-RMA < PM-DTCP-RMA@state.gov>

Subject: RE: Control Number: H20190801=003 -- Member: Cotton, Tom -- Date Due: 8/23/2019

Happy to help if anything is needed on my end. Just let me know.

Joseph N. Khawam

Office of the Legal Adviser (L/PM)

From: Foster, John A < FosterJA2@state.gov > Sent: Tuesday, August 20, 2019 3:01 PM

To: Koelling, Richard W <KoellingRW@state.gov>; Khawam, Joseph N <KhawamJN@state.gov>

Cc: PM-DTCP-RMA < PM-DTCP-RMA@state.gov>

Subject: Re: Control Number: H20190801=003 -- Member: Cotton, Tom -- Date Due: 8/23/2019

Rick,

Many thanks. I appreciate it.

Best, John

Get Outlook for iOS

From: Koelling, Richard W < Koelling RW@state.gov>

Sent: Tuesday, August 20, 2019 2:59:04 PM

Case 2:20-cv-00111-RAJ Document 106-13 Filed 09/23/20 Page 323 of 378

To: Foster, John A < Foster JA2@state.gov >; Khawam, Joseph N < Khawam JN@state.gov >

Cc: PM-DTCP-RMA < PM-DTCP-RMA@state.gov >

Subject: RE: Control Number: H20190801=003 -- Member: Cotton, Tom -- Date Due: 8/23/2019

John,

Will do. Just saw Josh this morning; will engage him soonest. Keep you apprised.

Rick

Richard W. Koelling, Jr.
Deputy Director (Acting)
Office of Defense Trade Controls Policy
Department of State
202-663-2828

Official

UNCLASSIFIED

From: Foster, John A < FosterJA2@state.gov > Sent: Tuesday, August 20, 2019 2:35 PM

To: Koelling, Richard W < Koelling RW@state.gov >; Khawam, Joseph N < Khawam JN@state.gov >

Cc: PM-DTCP-RMA < PM-DTCP-RMA@state.gov>

Subject: Fwd: Control Number: H20190801=003 -- Member: Cotton, Tom -- Date Due: 8/23/2019

Rick and Joe,



Thanks,

John

Get Outlook for iOS

From: Paul, Joshua M < PaulJM@state.gov>

Sent: Tuesday, August 20, 2019 1:44 PM

To: PM-DTCP-RMA; PM-CPA

Subject: FW: Control Number: H20190801=003 -- Member: Cotton, Tom -- Date Due: 8/23/2019

FYSA.

Case 2:20-cv-00111-RAJ Document 106-13 Filed 09/23/20 Page 324 of 378

Official

UNCLASSIFIED

From: Paul, Joshua M

Sent: Tuesday, August 20, 2019 1:41 PM

To: H CCU@state.gov; H CCTasking-PM <H CCTasking-PM@state.gov>

Cc: Darrach, Tamara A < DarrachTA@state.gov>

Subject: RE: Control Number: H20190801=003 -- Member: Cotton, Tom -- Date Due: 8/23/2019

Hi - I would like to discuss with HPDAS

From: H CCU@state.gov < H CCU@state.gov >

Sent: Tuesday, August 20, 2019 1:39 PM

To: H_CCTasking-PM < H_CCTasking-PM@state.gov>

Cc: Darrach, Tamara A < DarrachTA@state.gov>

Subject: Control Number: H20190801=003 -- Member: Cotton, Tom -- Date Due: 8/23/2019

The response was returned via separate email. Per the HPDAS:

Control Number: H20190801=003

Date Due: 8/6/2019

Actions:

• Reply for signature by Mary Elizabeth Taylor, Assistant Secretary, Legislative Affairs.

Member: Cotton, Tom

Subject: Writing to Secretary Pompeo and Commerce Secretary Ross regarding the transfer of export licensing authority for sporting and commercial firearms and ammunition products currently on Categories I, II, and III of the U.S. Munitions List (USML) from DOS to Commerce's Bureau of Industry and Security (BIS).

2 Day Tasker

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(high) side to the H Staffers. Also, please advise the CCU on the unclassified (low) side when the action memo
has been submitted.

Case 2:20-cv-00111-RAJ Document 106-13 Filed 09/23/20 Page 325 of 378

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Official

UNCLASSIFIED

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Message

From: Khawam, Joseph N [KhawamJN@state.gov]

Sent: 8/20/2019 10:05:52 PM

To: Minarich, Christine M [MinarichCM@state.gov]

Subject: RE: Rob Monjay and Cats I-III

I'm completely open on Thu morning, so feel free to choose any time that works for you. Thanks!

Joseph N. Khawam
Office of the Legal Adviser (L/PM)

From: Minarich, Christine M < Minarich CM@state.gov>

Sent: Tuesday, August 20, 2019 6:04 PM

To: Khawam, Joseph N < KhawamJN@state.gov>

Subject: Rob Monjay and Cats I-III

Rob acknowledged that he needs to chat with us about Cats I-III. He suggested a meeting in HST tomorrow morning or Thursday morning. I'm pretty tied up tomorrow with a meeting with Cat and then the staff meeting. Is there a time that would work for you on Thursday? If so, I can send an invite and try to pin him down.

Christine

Case 2:20-cv-00111-RAJ Document 106-13 Filed 09/23/20 Page 327 of 378

Appointment

From: Minarich, Christine M [MinarichCM@state.gov]

Sent: 8/21/2019 2:34:01 AM

To: Monjay, Robert [MonjayR@state.gov]; Khawam, Joseph N [KhawamJN@state.gov]

Subject: Cats I-III Discussion

Location: HST 6806

Start: 8/22/2019 2:00:00 PM **End**: 8/22/2019 2:30:00 PM

Show Time As: Tentative

Recurrence: (none)

Rob,

I'm tied up tomorrow morning but I hope this time works for you on Thursday.

Christine

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Message

From: Monjay, Robert [MonjayR@state.gov]

Sent: 8/22/2019 11:35:24 AM

To: Khawam, Joseph N [KhawamJN@state.gov]; Minarich, Christine M [MinarichCM@state.gov]
CC: Hart, Robert L [HartRL@state.gov]; Foster, John A [FosterJA2@state.gov]; Koelling, Richard W

[KoellingRW@state.gov]

Subject: Cats I-III

Attachments: Tab 1 - Cat I-III Final FRN BIS controls on 3D printing in preamble.docx

Joe and Christine,

Thanks Rob

Robert J. Monjay

U.S. Department of State

Office of Defense Trade Controls Policy

Phone: 202.663.2817 Mobile:

Email: <u>MonjayR@state.gov</u>

Official - SBU UNCLASSIFIED

Case 2:20-cv-00111-RAJ Document 106-13 Filed 09/23/20 Page 329 of 378

Message

From: Koelling, Richard W [KoellingRW@state.gov]

Sent: 8/22/2019 2:32:40 PM

To: Monjay, Robert [MonjayR@state.gov]

Subject: FW: Cats I-III

Attachments: Tab 1 - Cat I-III Final FRN BIS controls on 3D printing in preamble.docx

Rob,

Rick

Richard W. Koelling, Jr.
Deputy Director (Acting)
Office of Defense Trade Controls Policy
Department of State
202-663-2828

Official - SBU UNCLASSIFIED

From: Monjay, Robert < MonjayR@state.gov> Sent: Thursday, August 22, 2019 7:35 AM

To: Khawam, Joseph N < KhawamJN@state.gov>; Minarich, Christine M < MinarichCM@state.gov> **Cc:** Hart, Robert L < HartRL@state.gov>; Foster, John A < FosterJA2@state.gov>; Koelling, Richard W

<KoellingRW@state.gov>

Subject: Cats I-III

Joe and Christine,

I revised the Cats I-III rule

Thanks Rob

Robert J. Monjay U.S. Department of State Office of Defense Trade Controls Policy

Phone: 202.663.2817 Mobile:

Email: <u>MonjayR(a)state.gov</u>

Official - SBU UNCLASSIFIED

Case 2:20-cv-00111-RAJ Document 106-13 Filed 09/23/20 Page 330 of 378

Message

From: Koelling, Richard W [KoellingRW@state.gov]

Sent: 8/23/2019 10:56:26 AM

To: Heidema, Sarah J [HeidemaSJ@state.gov]; Monjay, Robert [MonjayR@state.gov]; Paul, Joshua M

[PaulJM@state.gov]; Foster, John A [FosterJA2@state.gov]

Subject: Re: Cats I-III

Sarah, Talked to josh yesterday. He's in favor. Can do this after staff meeting today.

Get Outlook for iOS

From: Heidema, Sarah J < HeidemaSJ@state.gov>

Sent: Friday, August 23, 2019 6:53:32 AM

To: Monjay, Robert <MonjayR@state.gov>; Koelling, Richard W <KoellingRW@state.gov>; Paul, Joshua M

<PaulJM@state.gov>; Foster, John A <FosterJA2@state.gov>

Subject: Re: Cats I-III

I'd suggest a quick call on our side then probably a discussion with Jeff Kovar.

Can we have a call this morning? I can make whatever ever work. Josh-

Would also be good if you could make it. Say 10am?

From: Monjay, Robert < MonjayR@state.gov>

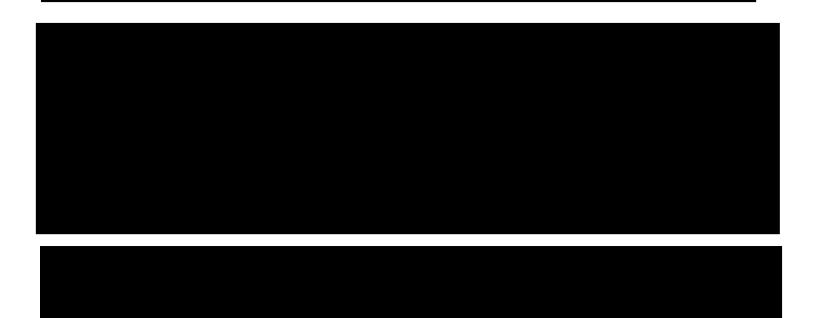
Sent: Friday, August 23, 2019 6:16:21 AM

To: Koelling, Richard W <KoellingRW@state.gov>; Heidema, Sarah J <HeidemaSJ@state.gov>; Paul, Joshua M

<PaulJM@state.gov>; Foster, John A <FosterJA2@state.gov>

Subject: Cats I-III

I had two meetings on Cats I-III on Thursday.



Thanks

Rob

Robert Monjay

Office: 202-663-2817

Mobile:

Case 2:20-cv-00111-RAJ Document 106-13 Filed 09/23/20 Page 332 of 378

Message

From: Paul, Joshua M [PaulJM@state.gov]

Sent: 8/23/2019 2:22:56 PM

To: Windecker, Melissa A [WindeckerMA@state.gov]

CC: Hart, Robert L [HartRL@state.gov]; McKeeby, David I [McKeebyDl@state.gov]; Heidema, Sarah J

[HeidemaSJ@state.gov]; Koelling, Richard W [KoellingRW@state.gov]

Subject: Ghost Email to A/S Ashooh



Josh Paul

Director, Congressional & Public Affairs Bureau of Political-Military Affairs (PM/CPA)

U.S. Department of State

 Phone:
 202.647.7878 | □
 BlackBerry:
 □
 Fax: 202.647.4055

⊠ e-mail: PaulJM@State.Gov | * Web: www.state.gov/t/pm/

http://twitter.com/StateDeptPM

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Official

UNCLASSIFIED

Case 2:20-cv-00111-RAJ Document 106-13 Filed 09/23/20 Page 334 of 378

Message

From: Heidema, Sarah J [HeidemaSJ@state.gov]

Sent: 8/23/2019 2:26:06 PM

To: Paul, Joshua M [PaulJM@state.gov]; Windecker, Melissa A [WindeckerMA@state.gov]

CC: Hart, Robert L [HartRL@state.gov]; McKeeby, David I [McKeebyDI@state.gov]; Koelling, Richard W

[KoellingRW@state.gov]

Subject: Re: Ghost Email to A/S Ashooh

This looks fine to me

From: Paul, Joshua M <PaulJM@state.gov> Sent: Friday, August 23, 2019 10:22:56 AM

To: Windecker, Melissa A < Windecker MA@state.gov>

Cc: Hart, Robert L < HartRL@state.gov>; McKeeby, David I < McKeebyDI@state.gov>; Heidema, Sarah J

<HeidemaSJ@state.gov>; Koelling, Richard W <KoellingRW@state.gov>

Subject: Ghost Email to A/S Ashooh



Josh Paul

Director, Congressional & Public Affairs Bureau of Political-Military Affairs (PM/CPA) U.S. Department of State

Case 2:20-cv-00111-RAJ Document 106-13 Filed 09/23/20 Page 335 of 378

Phone: 202.647.7878 | □ BlackBerry: □ Fax: 202.647.4055

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Official

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Case 2:20-cv-00111-RAJ Document 106-13 Filed 09/23/20 Page 336 of 378

Message

From: Windecker, Melissa A [WindeckerMA@state.gov]

Sent: 8/23/2019 2:58:11 PM

To: Cooper, R. Clarke [CooperRC@state.gov]

Subject: GHOST Email To A/S Ashooh, Commerce RE: CATS



From: Windecker, Melissa A [WindeckerMA@state.gov]

Sent: 8/23/2019 2:58:28 PM

To: Koelling, Richard W [KoellingRW@state.gov]; Heidema, Sarah J [HeidemaSJ@state.gov]; Paul, Joshua M

[PaulJM@state.gov]

CC: Hart, Robert L [HartRL@state.gov]; McKeeby, David I [McKeebyDl@state.gov]

Subject: RE: Ghost Email to A/S Ashooh

Thanks guys, this is queued for the A/S

From: Koelling, Richard W < Koelling RW@state.gov>

Sent: Friday, August 23, 2019 10:57 AM

To: Heidema, Sarah J < HeidemaSJ@state.gov>; Paul, Joshua M < PaulJM@state.gov>; Windecker, Melissa A

<WindeckerMA@state.gov>

Cc: Hart, Robert L < HartRL@state.gov>; McKeeby, David I < McKeebyDI@state.gov>

Subject: RE: Ghost Email to A/S Ashooh

Sorry, got two letters flipped. Richard.ashooh@bis.doc.gov.

Richard W. Koelling, Jr.
Deputy Director (Acting)
Office of Defense Trade Controls Policy
Department of State
202-663-2828

Official

UNCLASSIFIED

From: Koelling, Richard W

Sent: Friday, August 23, 2019 10:54 AM

To: Heidema, Sarah J < HeidemaSJ@state.gov>; Paul, Joshua M < PaulJM@state.gov>; Windecker, Melissa A

< Windecker MA@state.gov>

Cc: Hart, Robert L < HartRL@state.gov >; McKeeby, David I < McKeebyDI@state.gov >

Subject: RE: Ghost Email to A/S Ashooh

Josh,

Address is Richard.ahsooh@bis.doc.gov.

Cheers,

Rick

Richard W. Koelling, Jr.
Deputy Director (Acting)
Office of Defense Trade Controls Policy
Department of State
202-663-2828

Official

UNCLASSIFIED

Case 2:20-cv-00111-RAJ Document 106-13 Filed 09/23/20 Page 338 of 378

From: Heidema, Sarah J < HeidemaSJ@state.gov>

Sent: Friday, August 23, 2019 10:26 AM

To: Paul, Joshua M < Paul JM@state.gov >; Windecker, Melissa A < Windecker MA@state.gov >

Cc: Hart, Robert L < HartRL@state.gov >; McKeeby, David I < McKeebyDI@state.gov >; Koelling, Richard W

< Koelling RW@state.gov>

Subject: Re: Ghost Email to A/S Ashooh

This looks fine to me

From: Paul, Joshua M < PaulJM@state.gov > Sent: Friday, August 23, 2019 10:22:56 AM

To: Windecker, Melissa A < Windecker MA@state.gov >

Cc: Hart, Robert L < HartRL@state.gov >; McKeeby, David I < McKeebyDI@state.gov >; Heidema, Sarah J

< HeidemaSJ@state.gov >; Koelling, Richard W < KoellingRW@state.gov >

Subject: Ghost Email to A/S Ashooh



Josh Paul

Director, Congressional & Public Affairs Bureau of Political-Military Affairs (PM/CPA)

U.S. Department of State

Phone:

202.647.7878 | □ BlackBerry:

Fax: 202.647.4055

Case 2:20-cv-00111-RAJ Document 106-13 Filed 09/23/20 Page 339 of 378

e-mail: PaulJM@State.Gov | Deb: www.state.gov/t/pm/

http://twitter.com/StateDeptPM

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Official

UNCLASSIFIED

Case 2:20-cv-00111-RAJ Document 106-13 Filed 09/23/20 Page 340 of 378

Message

From: Koelling, Richard W [KoellingRW@state.gov]

Sent: 8/25/2019 2:47:43 AM

To: Miller, Michael F [Millermf@state.gov]

Subject: Fwd: Cats I-III

Mike,

I can provide further details on

Monday.

V/r,

Rick

Get Outlook for iOS

From: Koelling, Richard W

Sent: Friday, August 23, 2019 7:47:58 AM

To: Paul, Joshua M <PaulJM@state.gov>; Heidema, Sarah J <HeidemaSJ@state.gov>; Monjay, Robert

<MonjayR@state.gov>; Foster, John A <FosterJA2@state.gov>

Subject: RE: Cats I-III

John is on leave, Rob has gone to greener pastures, so it may just be us. Josh, we'll touch base right before the huddle.

Rick

Richard W. Koelling, Jr.
Deputy Director (Acting)
Office of Defense Trade Controls Policy
Department of State
202-663-2828

Official

UNCLASSIFIED

From: Paul, Joshua M <PaulJM@state.gov> Sent: Friday, August 23, 2019 7:46 AM

To: Koelling, Richard W <KoellingRW@state.gov>; Heidema, Sarah J <HeidemaSJ@state.gov>; Monjay, Robert

<MonjayR@state.gov>; Foster, John A <FosterJA2@state.gov>

Subject: RE: Cats I-III

Hah – interesting. Thanks, yes, happy to do in my office at 10am. I can provide a call-in line if it's more than just us and Sarah?

Official

UNCLASSIFIED

From: Koelling, Richard W < Koelling RW@state.gov>

Sent: Friday, August 23, 2019 7:33 AM

Case 2:20-cv-00111-RAJ Document 106-13 Filed 09/23/20 Page 341 of 378

To: Heidema, Sarah J < <u>HeidemaSJ@state.gov</u>>; Monjay, Robert < <u>MonjayR@state.gov</u>>; Paul, Joshua M < PaulJM@state.gov>; Foster, John A < FosterJA2@state.gov>

Subject: RE: Cats I-III

Josh,

We can take this in your office immediately following the standup, if you're free. (not sure if my earlier message made it out).

Rick

Richard W. Koelling, Jr.
Deputy Director (Acting)
Office of Defense Trade Controls Policy
Department of State
202-663-2828

Official

UNCLASSIFIED

From: Heidema, Sarah J < HeidemaSJ@state.gov>

Sent: Friday, August 23, 2019 6:54 AM

To: Monjay, Robert < MonjayR@state.gov>; Koelling, Richard W < KoellingRW@state.gov>; Paul, Joshua M

<PaulJM@state.gov>; Foster, John A <FosterJA2@state.gov>

Subject: Re: Cats I-III

I'd suggest a quick call on our side then probably a discussion with Jeff Kovar.

Can we have a call this morning? I can make whatever ever work. Josh-

Would also be good if you could make it. Say 10am?

From: Monjay, Robert < MonjayR@state.gov>

Sent: Friday, August 23, 2019 6:16:21 AM

To: Koelling, Richard W < Koelling RW@state.gov>; Heidema, Sarah J < HeidemaSJ@state.gov>; Paul, Joshua M

<PaulJM@state.gov>; Foster, John A <FosterJA2@state.gov>

Subject: Cats I-III

I had two meetings on Cats I-III on Thursday.



From: Koelling, Richard W [KoellingRW@state.gov]

Sent: 8/26/2019 2:55:57 PM

To: Heidema, Sarah J [HeidemaSJ@state.gov]; Paul, Joshua M [PaulJM@state.gov]; Hart, Robert L [HartRL@state.gov]

CC: Windecker, Melissa A [WindeckerMA@state.gov]; PM-CPA [PM-CPA@state.gov]

Subject: RE: Senate and USML Categories I,II, III Follow-up

Sarah.

v/r, Rick

Richard W. Koelling, Jr.
Deputy Director (Acting)
Office of Defense Trade Controls Policy
Department of State
202-663-2828

SBU

From: Heidema, Sarah J < HeidemaSJ@state.gov>

Sent: Monday, August 26, 2019 9:49 AM

To: Paul, Joshua M <PaulJM@state.gov>; Koelling, Richard W <KoellingRW@state.gov>; Hart, Robert L

<HartRL@state.gov>

Cc: Windecker, Melissa A <WindeckerMA@state.gov>; PM-CPA <PM-CPA@state.gov>

Subject: Re: Senate and USML Categories I,II, III Follow-up

Thanks!

From: Paul, Joshua M < PaulJM@state.gov>
Sent: Monday, August 26, 2019 9:42:34 AM

To: Koelling, Richard W <KoellingRW@state.gov>; Hart, Robert L <HartRL@state.gov>; Heidema, Sarah J

<HeidemaSJ@state.gov>

Cc: Windecker, Melissa A < Windecker MA@state.gov>; PM-CPA < PM-CPA@state.gov>

Subject: FW: Senate and USML Categories I,II, III Follow-up

SBU

From: Richard Ashooh < Richard Ashooh@bis.doc.gov>

Sent: Monday, August 26, 2019 9:40 AM **To:** Cooper, R. Clarke < <u>CooperRC@state.gov</u>>

Cc: <u>James.Sullivan@trade.gov</u>; Wilson, Patrick (Federal) <<u>pwilson@doc.gov</u>>; Paul, Joshua M <<u>PaulJM@state.gov</u>>;

Heidema, Sarah J < HeidemaSJ@state.gov>; Koelling, Richard W < KoellingRW@state.gov>; Matthew Borman

<<u>Matthew.Borman@bis.doc.gov</u>>; Lopes, Alexander <alexander.lopes@bis.doc.gov>; Anne Teague

<Anne.Teague@bis.doc.gov>; Abraham, Liz <LAbraham@doc.gov>; Jessica Curyto <Jessica.Curyto@bis.doc.gov>

Subject: RE: Senate and USML Categories I,II, III Follow-up



From: Cooper, R. Clarke < CooperRC@state.gov>

Sent: Friday, August 23, 2019 7:04 PM

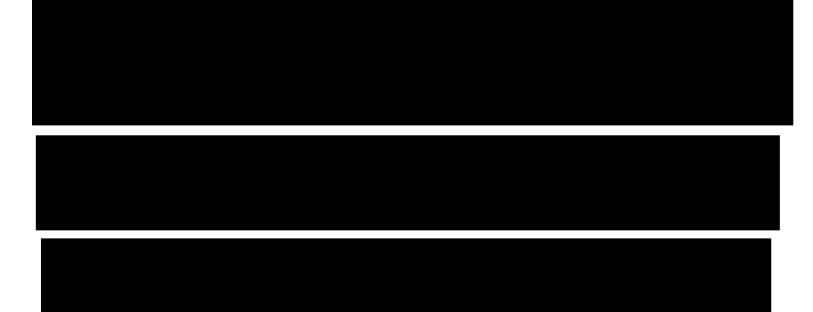
To: Richard Ashooh < Richard. Ashooh@bis.doc.gov>

Cc: James.Sullivan@trade.gov; Wilson, Patrick (Federal) pwilson@doc.gov>; Paul, Joshua M <PaulJM@state.gov>;

Heidema, Sarah J < HeidemaSJ@state.gov>; Koelling, Richard W < KoellingRW@state.gov>

Subject: Senate and USML Categories I,II, III Follow-up

Dear Richard,



Sincerely, Clarke

R. Clarke Cooper

Assistant Secretary of State Political Military Affairs Bureau

CooperRC@state.gov

ENGAGE. ENHANCE. ENABLE.

From: Miller, Michael F [Millermf@state.gov]

Sent: 8/26/2019 8:03:27 PM

To: Koelling, Richard W [KoellingRW@state.gov]

Subject: RE: Your Meeting with Rachel Schiller today and DTCP update

Thanks Rick this is very helpful.

Unclassified

From: Koelling, Richard W < Koelling RW@state.gov>

Sent: Monday, August 26, 2019 2:19 PM **To:** Miller, Michael F < Millermf@state.gov>

Subject: RE: Your Meeting with Rachel Schiller today and DTCP update

Mike,

I'm sure you've been keeping up with the Cats I-III drama. Cooper reached out to Ashooh,



Very respectfully,

Rick

Richard W. Koelling, Jr.
Deputy Director (Acting)
Office of Defense Trade Controls Policy
Department of State
202-663-2828

Unclassified

Case 2:20-cv-00111-RAJ Document 106-13 Filed 09/23/20 Page 346 of 378

From: Miller, Michael F < Millermf@state.gov>
Sent: Monday, August 26, 2019 2:05 PM

To: Koelling, Richard W < Koelling RW@state.gov>

Subject: RE: Your Meeting with Rachel Schiller today and DTCP update

Thanks Rick -

MM

Unclassified

From: Koelling, Richard W < Koelling RW@state.gov >

Sent: Monday, August 26, 2019 11:30 AM **To:** Miller, Michael F < Millermf@state.gov>

Subject: Your Meeting with Rachel Schiller today and DTCP update

Importance: High

Mike,



Very respectfully,

Rick

Richard W. Koelling, Jr.
Deputy Director (Acting)
Office of Defense Trade Controls Policy
Department of State
202-663-2828

Unclassified

From: Miller, Michael F [Millermf@state.gov]

Sent: 8/26/2019 8:12:10 PM

To: Hart, Robert L [HartRL@state.gov]

Subject: RE: Cats I-III

Making sure you have this as well - don't see you copied for whatever reason.

MM

SBU

From: Koelling, Richard W < Koelling RW@state.gov>

Sent: Saturday, August 24, 2019 10:48 PM **To:** Miller, Michael F <Millermf@state.gov>

Subject: Fwd: Cats I-III

Mike, I can provide further details on Monday.

V/r,

Rick

Get Outlook for iOS

From: Koelling, Richard W

Sent: Friday, August 23, 2019 7:47:58 AM

To: Paul, Joshua M < Paul M@state.gov >; Heidema, Sarah J < HeidemaSJ@state.gov >; Monjay, Robert

<MonjayR@state.gov>; Foster, John A <FosterJA2@state.gov>

Subject: RE: Cats I-III

John is on leave, Rob has gone to greener pastures, so it may just be us. Josh, we'll touch base right before the huddle.

Rick

Richard W. Koelling, Jr.
Deputy Director (Acting)
Office of Defense Trade Controls Policy
Department of State
202-663-2828

Official

UNCLASSIFIED

From: Paul, Joshua M < Paul M@state.gov > Sent: Friday, August 23, 2019 7:46 AM

Case 2:20-cv-00111-RAJ Document 106-13 Filed 09/23/20 Page 348 of 378

To: Koelling, Richard W < KoellingRW@state.gov>; Heidema, Sarah J < HeidemaSJ@state.gov>; Monjay, Robert < MonjayR@state.gov>; Foster, John A < FosterJA2@state.gov>

Subject: RE: Cats I-III

Hah – interesting. Thanks, yes, happy to do in my office at 10am. I can provide a call-in line if it's more than just us and Sarah?

Official

UNCLASSIFIED

From: Koelling, Richard W < Koelling RW@state.gov>

Sent: Friday, August 23, 2019 7:33 AM

To: Heidema, Sarah J < HeidemaSJ@state.gov >; Monjay, Robert < MonjayR@state.gov >; Paul, Joshua M

<PaulJM@state.gov>; Foster, John A <FosterJA2@state.gov>

Subject: RE: Cats I-III

Josh,

We can take this in your office immediately following the standup, if you're free. (not sure if my earlier message made it

Rick

Richard W. Koelling, Jr.
Deputy Director (Acting)
Office of Defense Trade Controls Policy
Department of State
202-663-2828

Official

UNCLASSIFIED

From: Heidema, Sarah J < HeidemaSJ@state.gov>

Sent: Friday, August 23, 2019 6:54 AM

To: Monjay, Robert < MonjayR@state.gov>; Koelling, Richard W < KoellingRW@state.gov>; Paul, Joshua M

<PauliM@state.gov>; Foster, John A <FosteriA2@state.gov>

Subject: Re: Cats I-III

I'd suggest a quick call on our side then probably a discussion with Jeff Kovar.

Can we have a call this morning? I can make whatever ever work. Josh-

Would also be good if you could make it. Say 10am?

From: Monjay, Robert < MonjayR@state.gov>

Sent: Friday, August 23, 2019 6:16:21 AM

To: Koelling, Richard W < Koelling RW@state.gov>; Heidema, Sarah J < HeidemaSJ@state.gov>; Paul, Joshua M

WASHSTATEC002836

Case 2:20-cv-00111-RAJ Document 106-13 Filed 09/23/20 Page 349 of 378

<PaulJM@state.gov>; Foster, John A <FosterJA2@state.gov>

Subject: Cats I-III I had two meetings on Cats I-III on Thursday. Thanks Rob Robert Monjay Office: 202-663-2817 Mobile:

From: Marquis, Matthew R [MarquisMR@state.gov]

Sent: 8/27/2019 3:40:37 PM

To: PM-DTCP-Tasking-DL [PM-DTCP-Tasking-DL@state.gov]; Legal-PM-DL [Legal-PM-DL@state.gov]

CC: PM-CPA [PM-CPA@state.gov]; Miller, Michael F [Millermf@state.gov]

Subject: CPA Media Monitoring: Bloomberg: Is a Printed Gun Free Speech? This Isn't Your 1791 Right to Arms



Is a Printed Gun Free Speech? This Isn't Your 1791 Right to Arms By Erik Larson 27 August 2019

It's a question of who's violating the U.S. Constitution when it comes to print-at-home guns -- the federal agency accused of recklessly deregulating the weapons or the states that claim they're a threat to public safety.

A federal judge could provide an answer any day now -- and address the balance of power between states and the federal government -- in a ruling on digital blueprints that a small gun-technology company, Defense Distributed, wants to publish online for anyone with a 3-D printer.

The Obama administration blocked the company's publishing effort for years on the grounds that it would violate an arms-export law, but the State Department reversed course in June 2018 and gave Defense Distributed a green light. The company's website called it "our most famous victory."

The states quickly sued, seeking to invalidate a settlement that had been negotiated quietly between the federal government and Defense Distributed. President Donald Trump publicly criticized printable guns while his administration defended the deal.

"The evidence shows that the State Department failed to consider the national security implications of deregulation in light of the unique properties of untraceable, undetectable, 3D-printable plastic firearms," the states said.

The suit claims the accord violates the Tenth Amendment of the U.S. Constitution by eroding the state's police powers. Austin, Texas-based Defense Distributed says the states are violating the First Amendment by restricting what it can publish. Both sides asked a federal judge in Seattle to rule in their favor without a trial, making their arguments in a series of court filings over the summer.

A ruling could come at any time, and appeals are likely.

Defense Distributed says the entire country is being harmed by the effort to block "digital gunsmiths" from accessing the blueprints, comparing the dispute to past state efforts to stop school desegregation or gay marriage. Making gun blueprints available online is a quintessential free-speech right, no different from speaking on a street corner or publishing a book, it says.

"Recalcitrant states want an order forcing federal officials to re-impose that unconstitutional regime on the theory that the 'First Amendment is irrelevant," the company said in a June filing.

The free-speech fight was envisioned as early as 2012 by former Defense Distributed chief executive officer Cody Wilson, who recruited a team to develop "the first entirely 3-D printed pistol" dubbed the Liberator, according to the group's website. He was eager for a fight, and compared his company to WikiLeaks.

"Wilson directed a new, free speech approach to undermining the ideological forces of American gun control," the website says. "The Wiki Weapon Project is the philosophical and practical cornerstone of all Defense Distributed efforts."

G.S. Hans, a professor at Vanderbilt Law School who isn't involved in the case, said the lawsuit is complicated due to strong First Amendment principles allowing for publication of code online.

The states, led by Washington, argue that under the Tenth Amendment, police power is a "critical function reserved to the states."

The settlement "purports to allow any U.S. citizen to manufacture and use an undetectable and untraceable weapon -- regardless of their age, mental health status, or criminal history -- in violation of Washington's public safety laws," the states said.

The State Department is also seeking to have the suit thrown out, but the government's filings don't come out in support of printable guns.

"Manufacture or possession of plastic guns that are undetectable is a serious federal crime, punishable by up to five years in prison," the agency said in the first line of a March filing with the court. "The Department of Justice, among other agencies, enforces this prohibition, and will continue to do so vigorously."

Instead, the agency argues that the arms-export law simply doesn't apply to blueprints marketed toward domestic users. The law is intended to block export of arms to potential enemies abroad, it says.

The lawsuit "misunderstands the nature of the Department of State's authority," government lawyers argued.

Free speech aside, the company argues that the suit is pointless because the files have already been downloaded millions of times during a brief period when they weren't blocked.

"The whole world already has the files at issue, and always will," Defense Distributed said in a filing.

Link: https://www.bloomberg.com/news/articles/2019-08-27/is-a-printed-gun-free-speech-this-isn-t-your-1791-right-to-arms

Matthew Marquis

Office of Congressional & Public Affairs Bureau of Political-Military Affairs (PM/CPA) U.S. Department of State

Phone: 202.647.6968

e-mail: MarquisMR@state.gov | Web: PM Homepage |Twitter: @StateDeptPM

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From: Koelling, Richard W [KoellingRW@state.gov]

Sent: 8/27/2019 4:54:40 PM

To: Timothy Mooney [Timothy.Mooney@bis.doc.gov]; Teresa Telesco [Teresa.Telesco@bis.doc.gov]

Subject: RE: DOC Contact

Tim,

Thank you.

Rick

Richard W. Koelling, Jr.
Deputy Director (Acting)
Office of Defense Trade Controls Policy
Department of State
202-663-2828

Unclassified

From: Timothy Mooney <Timothy.Mooney@bis.doc.gov>

Sent: Tuesday, August 27, 2019 12:04 PM

To: Koelling, Richard W < Koelling RW@state.gov>; Teresa Telesco < Teresa. Telesco@bis.doc.gov>

Subject: RE: DOC Contact



From: Koelling, Richard W < Koelling RW@state.gov>

Sent: Tuesday, August 27, 2019 11:35 AM

To: Timothy Mooney <Timothy.Mooney@bis.doc.gov>; Teresa Telesco <Teresa.Telesco@bis.doc.gov>

Subject: DOC Contact

Tim, Teresa,

I'm trying to reach out to a Mr. Alex Lopes in Commerce. He is heavily involved in the editing of the Cat I-III rule on your end, and I was hoping to touch base with him. Would you happen to have contact information for him?

Thanks for your assistance in advance.

v/r, Rick

Richard W. Koelling, Jr. Deputy Director (Acting)

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Office of Defense Trade Controls Policy Department of State 202-663-2828

Unclassified

Case 2:20-cv-00111-RAJ Document 106-13 Filed 09/23/20 Page 355 of 378

Message

From: Koelling, Richard W [KoellingRW@state.gov]

Sent: 8/27/2019 5:16:33 PM

To: Lopes, Alexander [alexander.lopes@bis.doc.gov]; Douglas.Hassebrock@bis.doc.gov

Subject: USML Categories I-III Rules

Alex, Douglas,

I don't believe we've met. Until recently Rob Monjay worked for our office and as you are probably well aware, was the chief author of our Cats I-III regulation. With his departure to private practice, he will be sorely missed.

Anything you can provide would be of value.

Thank you.

Best regards,

Rick

Richard W. Koelling, Jr.
Deputy Director (Acting)
Office of Defense Trade Controls Policy
Department of State
202-663-2828

SBU

From: Koelling, Richard W [KoellingRW@state.gov]

Sent: 8/27/2019 6:20:09 PM

To: Timothy Mooney [Timothy.Mooney@bis.doc.gov]

Subject: RE: DOC Contact

Tim, I just spoke with Doug. You may actually be the person I need to chat with. Issue is Cat I-III rule. Are you the POC for that now?

Richard W. Koelling, Jr.
Deputy Director (Acting)
Office of Defense Trade Controls Policy
Department of State
202-663-2828

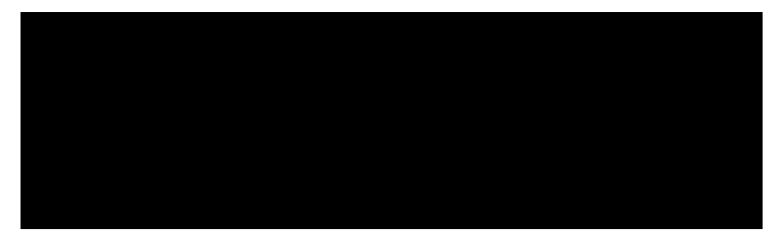
SBU

From: Timothy Mooney <Timothy.Mooney@bis.doc.gov>

Sent: Tuesday, August 27, 2019 12:04 PM

To: Koelling, Richard W < Koelling RW@state.gov>; Teresa Telesco < Teresa. Telesco@bis.doc.gov>

Subject: RE: DOC Contact



From: Koelling, Richard W < Koelling RW@state.gov>

Sent: Tuesday, August 27, 2019 11:35 AM

To: Timothy Mooney < Timothy. Mooney@bis.doc.gov>; Teresa Telesco < Teresa. Telesco@bis.doc.gov>

Subject: DOC Contact

Tim, Teresa,

I'm trying to reach out to a Mr. Alex Lopes in Commerce. He is heavily involved in the editing of the Cat I-III rule on your end, and I was hoping to touch base with him. Would you happen to have contact information for him?

Thanks for your assistance in advance.

v/r, Rick

Richard W. Koelling, Jr.
Deputy Director (Acting)
Office of Defense Trade Controls Policy
Department of State

202-663-2828

Unclassified

From: Marquis, Matthew R [MarquisMR@state.gov]

Sent: 8/28/2019 5:47:54 PM

To: PM-DTCP-Tasking-DL [PM-DTCP-Tasking-DL@state.gov]; Legal-PM-DL [Legal-PM-DL@state.gov]

CC: PM-CPA [PM-CPA@state.gov]; Miller, Michael F [Millermf@state.gov]

Subject: CPA Media Monitoring: The Trace: 3D-Printed Gun Group Moves to Tumblr



3D-Printed Gun Group Moves to Tumblr By Champe Barton 27 August 2019

Banned by the major social media platforms, the 3D-printed gun community migrated this summer to less-trafficked corners of the Internet. But the most provocative proponent of homemade firearms, Deterrence Dispensed, hasn't given up just yet: On July 31, its de facto leader, an online anarchist who calls himself IvanTheTroll, set up an account on Tumblr, the niche microblogging site. Deterrence Dispensed is now using Tumblr to post weekly updates, and share updates to gun construction, including blueprints to print weapons at home.

3D-printed guns can be manufactured at home out of cheap plastics. They lack serial numbers, making them untraceable to law enforcement. While creating gun parts with a 3D-printer is allowed in many states, the legality of disseminating blueprints for the builds is more precarious. Democratic lawmakers have called for social platforms to prevent the sharing of plans, arguing that failing to do so facilitates the spread of dangerous weapons unknown to authorities.

Twitter, YouTube, Reddit, and Facebook all prohibit the sharing of 3D-printed gun plans. Several of the platforms have removed content posted by Deterrence Dispensed and IvanTheTroll, or banned their accounts. Tumblr has no policy against the distribution of 3D-printed gun plans.

Deterrence Dispensed's expansion to Tumblr comes at a transitional time for the microblogging site. The platform's growth has steadily declined since Yahoo purchased it for \$1.1 billion in 2013. Under the new ownership, Tumblr banned adult content in December 2018, a move cited for the loss of a third of its users. In mid-August of this year, Automattic, the parent company of WordPress, acquired Tumblr for just \$20 million.

Despite Tumblr's ban on adult content, the site still remains a gathering place for controversial groups. Reports by several news organizations identified a thriving community of white supremacists on the platform. Likewise, NSFW content creators continue to use the site in large numbers.

Deterrence Dispensed's presence on Tumblr harks back to the early days of the 3D-printed gun movement, when Defense Distributed, the first well-known organization to share plans, used the platform to share updates and florid calls to action. (Defense Distributed had stopped posting on Tumblr in 2016.)

In interviews following Tumblr's acquisition, Automattic's CEO, Matt Mullenweg, has signaled a willingness to stake out a harder line on content moderation. Mullenweg told The New York Times that he believes he "can take a humane and iterative stance" to policing site content, one that "strikes a really good balance between nurturing the type of conversation and communities and user experience that you want people to have while still allowing for a wide variety of expression."

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Mullenweg has not publicly addressed the issue of 3D-printed guns.

When contacted about Defense Distributed's use of its platform, a spokesperson for Automattic directed The Trace to Tumblr's press team. Tumblr did not respond to a request for comment.

IvanTheTroll also declined to be interviewed for this article. On Keybase, the encrypted chat app used by Deterrence Dispensed to communicate, many members of the group reacted approvingly to the group's existence on Tumblr, but some were skeptical. "If Tumblr seems like a weird venue for this content, don't worry," one member wrote in the group's chat. "I'm sure it will move again soon when [Ivan] gets banned there."

Link: https://www.thetrace.org/rounds/3d-printed-gun-group-moves-to-tumblr/

Matthew Marquis

Office of Congressional & Public Affairs Bureau of Political-Military Affairs (PM/CPA) U.S. Department of State

Phone: 202.647.6968

e-mail: MarquisMR@state.gov | Web: PM Homepage |Twitter: @StateDeptPM

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From: Marquis, Matthew R [MarquisMR@state.gov]

Sent: 8/28/2019 8:45:15 PM

To: Windecker, Melissa A [WindeckerMA@state.gov]; PM-Strategy [PM-Strategy@state.gov]

CC: PM-CPA [PM-CPA@state.gov]; PM-Directors [PM-Directors@state.gov]; PM-Deputy-Directors [PM-Deputy-Directors [PM

 $\label{lem:constant} \begin{tabular}{ll} Directors@state.gov]{constant:} PM-POLAD-DL [PM-POLAD-DL@state.gov]{constant:} Brown, Stanley L [BrownSL@state.gov]{constant:} Brow$

O'Keefe,Kevin P [OKeefeKP@state.gov]; Miller, Michael F [Millermf@state.gov]; Mak, Daniella [MakD@state.gov];

Dudding, Maria [DuddingM@state.gov]; Nute, Kathryn M [NuteKM3@state.gov]; McVerry, James

[James.Mcverry.ctr@dla.mil]; Phalen, Susan A [PhalenSA@state.gov]; Cooper,R. Clarke [CooperRC@state.gov];

Ryan.M.Tully@nsc.eop.gov

Subject: CPA MEDIA MONITORING: 28 August 2019



Alerts for 28 August 2019

"Turkey must move S-400s 'out of the country,' Esper says", Turkey "would have to get rid of the S-400 program, completely out of the country and out of whatever, and then we could consider" readmission to the F-35 program, Esper added. That clarifies a U.S. position that appears to include different red lines for different Turkish actions. Secretary of State Mark Pompeo said last month that Turkish "activation" of the S-400, rather than mere delivery of the system, would be "unacceptable" and could trigger sanctions.

<u>"U.S. Export Controls and "Published" Encryption Source Code Explained"</u>, Despite the legal victory in the Bernstein case, open source software with encryption remains subject to U.S. export control laws and regulations. Nevertheless, the lower burdens on export have opened the door for millions of people around the world to benefit from higher security. Although such software no longer is subject to the onerous restrictions under the ITAR or the EAR, however, some small requirements remain.

"New US-ASEAN Naval Drills a 'Balancing Act' with Beijing", The US-ASEAN exercise along the sea's southwestern flank follows China's own first-ever maritime drills with the bloc in October in the sea's far north. And like those with China, the drills with the United States will wrap up within a week and engage a total of eight ships, according to the Thai Navy.

"Yemen government forces storm Aden, seize airport: residents, officials", Yemen government forces on Wednesday captured Aden airport from southern separatists and attacked the city's eastern suburbs, residents and officials said, in renewed fighting that deepened a rift between supposed allies in a Saudi-led coalition.

"Lebanese troops fire at Israeli drone in south Lebanon", A security source told Reuters that troops fired shots from M16 assault rifles. Lebanon's President Michel Aoun had said on Monday his country had a right to defend itself after two Israeli drones crashed in Beirut suburbs on Sunday.

"Russia and Turkey mull fighter jet cooperation in further challenge to U.S. and NATO allies", The two sides held "technical consultations" on the joint creation of a fighter jet as well as "initial talks" on developing a Turkish fighter aircraft, Russian media cited officials from Russia's Federal Service for Military Technical Cooperation as saying. The body reports directly to Putin.

<u>"3D-Printed Gun Group Moves to Tumblr"</u>, While creating gun parts with a 3D-printer is allowed in many states, the legality of disseminating blueprints for the builds is more precarious. Democratic lawmakers have called for social platforms to prevent the sharing of plans, arguing that failing to do so facilitates the spread of dangerous weapons unknown to authorities.

- <u>"US Air Forces Africa builds partnerships through APF Kenya"</u>, "The African Partnership Flight is U.S. Air Forces Africa's premier security cooperation program with African partner nations intended to foster military collaboration and strong, long-lasting relationships with and between African partner nations," said Maj. Erik Anker, U.S. Air Forces Africa lead planner.
- "Angola: US\$300 mln required to clear minefields", Adriano Gonçalves, who was speaking on the sidelines of the strategy for mine action in Angola seminar, said that support for the Angolan demining process has been decreasing for ten years.
- "India to pay in Rupees for S-400 missile system from Russia, says top Russian diplomat", Days ahead of Prime Minister Narendra Modi's visit as a chief guest to Eastern Economic Forum in Vladivostok, Russia on Wednesday confirmed the delivery of S-400 Triumf advanced air defence missile system from Russia will start in 2023. Also, a new payment route has been formalised rupee-rouble payment mode has been formalised.
- <u>"Trump administration preparing for talks with Iran-backed Houthis in Yemen: report"</u>, The effort is reportedly aimed at convincing Saudi Arabia to take part in secret talks with the rebels in Oman to help broker a cease-fire in the conflict, which has emerged as a front line in the regional proxy war between Riyadh and Tehran.
- "F-35 issue separate from other relations with Turkey Pentagon official", "We are keeping the F-35 and Turkey separate and distinct from any other activities with Turkey. It was very clearly an S-400 issue with the F-35," said Lord and added that the U.S. State Department had the lead on any pursuits regarding the Countering America's Adversaries Through Sanctions Act (CAATSA). There is bipartisan support in the U.S. Congress to take further punitive measures against Turkey, but no concrete steps have been taken to date.
- "Trump's North Korea point man gets a look for No. 2 State Dept. job", While it's early in the selection process for the job, multiple officials said that Biegun, a former auto executive who has been the point man on working-level negotiations with the North Korean regime, is a strong candidate.
- "Hawaii Guard teams with Indonesia for key mission planning", The Hawaii National Guard is a state partner with Indonesia and regularly holds combined exercises and events to increase the depth of that relationship. This is the second year Hawaii and Indonesia have participated in an operation design seminar.
- "Understanding the Role of U.S. Industry in the Arms Trade Treaty", U.S. industry played a key role in the ATT negotiations, working to ensure there were no unintended consequences that would undermine the legitimate trade in conventional weapons or create additional costs or burdens for industry doing business in legal and responsible ways.
- "Women and War: Understanding the Nexus of Gender and Conflict", The gendered language of war, justification of conflict based on protecting women, and considerations of gender in peacekeeping missions are the central topics of discussion.
- "Saudi vice defence minister Prince Khalid bin Salman in US for Yemen talks", US officials said the visit centred on Yemen discussions as the Trump administration considers new approaches to end the four-year-old war between the internationally recognised Yemeni government and the Iran-backed Houthi rebels.
- "State Department clears five foreign military sales, including \$3.3B interceptor deal for Japan", The possible sale to Japan includes 73 SM-3 Block IIA missiles, as well as associated Mk-29 cannisters and other support equipment, according to the Defense Security Cooperation Agency. Japan has co-developed the SM-3 Block IIA with the United States, involving an industry team of Mitsubishi Heavy Industries and Raytheon.

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"Export Controls in the Age of AI", In the case of AI, however, there are few components over which the United States has a clear monopoly, or where allies who can produce the target components are willing to harmonize their export control systems with that of the United States. This limits the effectiveness of export controls in achieving a comprehensive restriction on the availability of AI technologies on the international market.

"Hundreds Of Thousands Of Landmines Remain From Korean War But Serve No Purpose", Activists estimate around a thousand people have been killed or maimed by landmines in recent decades. South Korea only passed a law mandating compensation for victims in 2014. Today, South Korean, or ROK, soldiers are clearing some landmines in order to dig for the remains of soldiers killed in the battle for Arrowhead Ridge during the Korean War.

"Up In Arms: Ukrainian Aircraft-Engine Plant Caught Up In U.S.-China Rivalry", The possible sale of Motor Sich -- a maker of engines for missiles, helicopters, and jets -- to the Chinese provoked a raid of its Zaporizhzhya headquarters by Ukraine's Security Service in early 2018 and the seizure of its shares.

"Swiss seek package deal of ground-based weapons, combat aircraft", The Swiss government plans to make the integration of combat aircraft and ground-based air defense assets a key benchmark in its planned \$8 billion Air 2030 program, according to officials.

<u>"US State Department clears \$4.2B in arms sales to Japan, SKorea, Hungary, Lithuania and Denmark"</u>, The sales, announced on the Defense Security Cooperation Agency website, would bring the total Foreign Military Sales cases cleared by the State Department to \$51.9 billion with roughly five weeks to go in fiscal 2020.

"Challenges Pile up on U.S.-South Korea Alliance Agenda", What is the future of cost-sharing arrangements with South Korea after the Trump administration's unreasonable demands for steep increases in its contributions?

<u>"U.S. expresses concern over S. Korea's drills around Dokdo"</u>, The State Department seems to be taking a hardline approach to pending issues related to Seoul while it had said that the issue of (territory) sovereignty should be resolved by South Korea and Japan in a peaceful manner.

Matthew Marquis

Office of Congressional & Public Affairs Bureau of Political-Military Affairs (PM/CPA) U.S. Department of State

Phone: 202.647.6968

e-mail: MarquisMR@state.gov | Web: PM Homepage | Twitter: @StateDeptPM

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Case 2:20-cv-00111-RAJ Document 106-13 Filed 09/23/20 Page 364 of 378

Message

From: Miller, Michael F [Millermf@state.gov]

Sent: 8/30/2019 8:25:49 PM

To: Koelling, Richard W [KoellingRW@state.gov]
Subject: RE: Senate and USML Categories I,II, III Follow-up

Thanks Rick – can you send me Ashooh's reply? Since I'm not copied on the outbound, I don't know that I've ever seen it (could be wrong)...which would account for the blank look you got from me when we discussed this. :o)

SBU

From: Koelling, Richard W < Koelling RW@state.gov>

Sent: Saturday, August 24, 2019 10:36 PM **To:** Miller, Michael F <Millermf@state.gov>

Subject: Fwd: Senate and USML Categories I,II, III Follow-up

Mike, I thought CC had cc'd you on this but appears he had not. Cat is fully informed that this reachout took place after a conference call among CPA, me, and Sarah.

V/r Rick

Get Outlook for iOS

From: Cooper, R. Clarke < CooperRC@state.gov>

Sent: Friday, August 23, 2019 7:03:55 PM

To: Richard.ashooh@bis.doc.gov <Richard.ashooh@bis.doc.gov>

 $\textbf{Cc: Sullivan, James} < \underline{James.Sullivan@trade.gov}; \textbf{Wilson, Patrick (Federal)} < \underline{pwilson@doc.gov}; \textbf{Paul, Joshua M} < \underline{PaulJM@state.gov}; \textbf{HeidemaSJ@state.gov}; \textbf{Koelling, Richard W} < \underline{KoellingRW@state.gov} > \underline{MoellingRW@state.gov} > \underline{$

Subject: Senate and USML Categories I,II, III Follow-up

Dear Richard,



Sincerely, Clarke

R. Clarke Cooper

Assistant Secretary of State Political Military Affairs Bureau

CooperRC@state.gov

ENGAGE. ENHANCE. ENABLE.

From: Koelling, Richard W [KoellingRW@state.gov]

Sent: 8/30/2019 8:31:47 PM

To: Miller, Michael F [Millermf@state.gov]
CC: Heidema, Sarah J [HeidemaSJ@state.gov]

Subject: Fwd: Senate and USML Categories I,II, III Follow-up

Mike, here is Ashooh's response per your request. While I'm fond of this remote access Outlook program, it does not translate well in confirming whether our intended emails are arriving as intended. This one is an example of that. Please confirm if this one includes the right text from Ashooh. Thanks.

V/R Rick.

Get Outlook for iOS

From: Richard Ashooh < Richard. Ashooh@bis.doc.gov>

Sent: Monday, August 26, 2019 9:40:08 AM **To:** Cooper, R. Clarke < CooperRC@state.gov>

Cc: James.Sullivan@trade.gov <James.Sullivan@trade.gov>; Wilson, Patrick (Federal) <pwilson@doc.gov>; Paul, Joshua M <PaulJM@state.gov>; Heidema, Sarah J <HeidemaSJ@state.gov>; Koelling, Richard W <KoellingRW@state.gov>; Matthew Borman <Matthew.Borman@bis.doc.gov>; Lopes, Alexander <alexander.lopes@bis.doc.gov>; Anne Teague <Anne.Teague@bis.doc.gov>; Abraham, Liz <LAbraham@doc.gov>; Jessica Curyto <Jessica.Curyto@bis.doc.gov>

Subject: RE: Senate and USML Categories I,II, III Follow-up



From: Cooper, R. Clarke < CooperRC@state.gov>

Sent: Friday, August 23, 2019 7:04 PM

To: Richard Ashooh < Richard. Ashooh@bis.doc.gov>

Cc: James.Sullivan@trade.gov; Wilson, Patrick (Federal) <pwilson@doc.gov>; Paul, Joshua M <PaulJM@state.gov>;

Heidema, Sarah J < HeidemaSJ@state.gov>; Koelling, Richard W < KoellingRW@state.gov>

Subject: Senate and USML Categories I,II, III Follow-up

Dear Richard,

Sincerely, Clarke

R. Clarke Cooper

Assistant Secretary of State Political Military Affairs Bureau

CooperkC@state.gov

ENGAGE. ENHANCE. ENABLE.

From: Miller, Michael F [Millermf@state.gov]

Sent: 8/30/2019 9:41:59 PM

To: Matthew.Borman@bis.doc.gov

Subject: 1-2-3

Hello Matt,

Just a quick note before the long weekend...hope this finds you well.



Cheers, Mike

Mike Miller | Acting Deputy Assistant Secretary
Bureau of Political-Military Affairs | U.S. Department of State

@ Desk: (202) 663-2861

☑ OpenNet: MillerMF@state.gov (

From: Richard Ashooh < Richard. Ashooh@bis.doc.gov>

Sent: Monday, August 26, 2019 9:40:08 AM **To:** Cooper, R. Clarke < CooperRC@state.gov>

Cc: James.Sullivan@trade.gov <James.Sullivan@trade.gov>; Wilson, Patrick (Federal) <pwilson@doc.gov>; Paul, Joshua M <PaulJM@state.gov>; Heidema, Sarah J <HeidemaSJ@state.gov>; Koelling, Richard W <KoellingRW@state.gov>; Matthew Borman <Matthew.Borman@bis.doc.gov>; Lopes, Alexander <alexander.lopes@bis.doc.gov>; Anne Teague <Anne.Teague@bis.doc.gov>; Abraham, Liz <LAbraham@doc.gov>; Jessica Curyto <Jessica.Curyto@bis.doc.gov>

Subject: RE: Senate and USML Categories I,II, III Follow-up



SBU - Deliberative Process

From: Kovar, Jeffrey D [KovarJD@state.gov]

Sent: 9/4/2019 9:02:37 PM

To: Nightingale, Robert L [NightingaleRL@state.gov]; String, Marik A [StringMA@state.gov]; Visek, Richard C

[VisekRC@state.gov]; Dorosin,Joshua L [DorosinJL@state.gov]; Hooke, Kathleen H [HOOKEKH@state.gov]; Fabry, Steven F [FabrySF@state.gov]; Wall, Amanda J [WallAJ@state.gov]; Freeman, Jeremy B [FreemanJB@state.gov]; Pompian, Shawn M [PompianSM@state.gov]; Brady, Juliette D [BradyJD@state.gov]; Childress, Donald E

[ChildressDE@state.gov]; Simmons, Joshua B [SimmonsJB@state.gov]

Subject: RE: NSC-Legal Weekly SVTC

SBU

From: Nightingale, Robert L < NightingaleRL@state.gov>

Sent: Wednesday, September 4, 2019 4:53 PM

To: String, Marik A <StringMA@state.gov>; Visek, Richard C <VisekRC@state.gov>; Dorosin, Joshua L

<DorosinJL@state.gov>; Hooke, Kathleen H <HOOKEKH@state.gov>; Fabry, Steven F <FabrySF@state.gov>; Kovar,
Jeffrey D <KovarJD@state.gov>; Wall, Amanda J <WallAJ@state.gov>; Freeman, Jeremy B <FreemanJB@state.gov>;

Pompian, Shawn M <PompianSM@state.gov>; Brady, Juliette D <BradyJD@state.gov>; Childress, Donald E

<ChildressDE@state.gov>; Simmons, Joshua B <SimmonsJB@state.gov>

Subject: RE: NSC-Legal Weekly SVTC

Robby

-----Original Appointment-----

From: Nightingale, Robert L

Sent: Monday, April 8, 2019 6:45 PM

To: Nightingale, Robert L; String, Marik A; Visek, Richard C; Dorosin, Joshua L; Hooke, Kathleen H; Fabry, Steven F; Kovar, Jeffrey D; Wall, Amanda J; Freeman, Jeremy B; Pompian, Shawn M; Brady, Juliette D; Childress, Donald E; Simmons,

Best,

Joshua B

Subject: NSC-Legal Weekly SVTC

When: Thursday, September 5, 2019 12:30 PM-1:30 PM Customized Time Zone.

Where:

SBU

Case 2:20-cv-00111-RAJ Document 106-13 Filed 09/23/20 Page 370 of 378

Message

From: Abraham, Liz (Federal) [LAbraham@doc.gov]

Sent: 9/5/2019 12:47:26 PM

To: Khawam, Joseph N [KhawamJN@state.gov]
CC: Minarich, Christine M [MinarichCM@state.gov]

Subject: RE: Cats I-III

Confidentiality Notice: This e-mail message is intended only for the named recipients. It contains information that may be confidential, privileged, attorney work product, or otherwise exempt from disclosure under applicable law. If you have received this message in error, are not a named recipient, or are not the employee or agent responsible for delivering this message to a named recipient, be advised that any review, disclosure, use, dissemination, distribution, or reproduction of this message or its contents is strictly prohibited. Please notify us immediately that you have received this message in error, and delete the message.

From: Khawam, Joseph N < KhawamJN@state.gov>

Sent: Thursday, September 5, 2019 8:47 AM **To:** Abraham, Liz (Federal) <LAbraham@doc.gov> **Cc:** Minarich, Christine M <MinarichCM@state.gov>

Subject: Cats I-III

Hi Liz: Christine and I were asked by our leadership to reach out to you to request an update on Cats I-III. They asked if we could connect with you before 12:30 pm today if possible. Would you have a few minutes this morning to discuss? I have a previously scheduled call scheduled from 10:00 – 10:45 am, but I'm free otherwise.

Thanks, Joe

Joseph N. Khawam Attorney-Adviser U.S. Department of State Office of the Legal Adviser (L/PM) 2201 C Street NW, Suite 6420 Washington, DC 20520

Office: (202) 647-8546

Opennet: KhawamJN@state.gov

SBU - Legal

From: Memos, Nicholas [MemosNI@state.gov]

Sent: 9/11/2019 11:17:58 AM

To: Miller, Michael F [Millermf@state.gov]

Subject: RE: USML/CCL review

Mike,

I would like to have a five minute conversation with you schedule allows for this today.

Please let me know if your

Thanks, Nick

SBU - Deliberative Process

From: Miller, Michael F < Millermf@state.gov> Sent: Tuesday, September 10, 2019 12:52 PM

To: Matthew Borman < Matthew.Borman@bis.doc.gov>; Laychak, Michael R SES DTSA EO (US)

<michael.r.laychak.civ@mail.mil>; Brackett, Taurus L CIV DTSA LD (USA) <taurus.l.brackett.civ@mail.mil>; Minnifield,

Tracy J CIV DTSA LD (US) <tracy.j.minnifield.civ@mail.mil>; Daoussi, Susan G CIV DTSA LD (USA)

<susan.g.daoussi.civ@mail.mil>; Memos, Nicholas <MemosNI@state.gov>; Hart, Robert L <HartRL@state.gov>;

Heidema, Sarah J < HeidemaSJ@state.gov>

Cc: Richard Ashooh <Richard.Ashooh@bis.doc.gov>
Subject: RE: [Non-DoD Source] USML/CCL review

Importance: High

Thanks Matt.

In related news, would like to get feedback from you on Cats 1-2-3.

Thanks, Mike

Mike Miller | Acting Deputy Assistant Secretary

Bureau of Political-Military Affairs | U.S. Department of State

@ Desk: (202) 663-2861

□ OpenNet: MillerMF@state.gov

SBU - Deliberative Process

From: Matthew Borman < Matthew.Borman@bis.doc.gov>

Sent: Monday, September 9, 2019 3:33 PM

To: Laychak, Michael R SES DTSA EO (US) <<u>michael.r.laychak.civ@mail.mil</u>>; Brackett, Taurus L CIV DTSA LD (USA) <<u>taurus.l.brackett.civ@mail.mil</u>>; Minnifield, Tracy J CIV DTSA LD (US) <<u>tracy.j.minnifield.civ@mail.mil</u>>; Daoussi, Susan G CIV DTSA LD (USA) <<u>susan.g.daoussi.civ@mail.mil</u>>

Case 2:20-cv-00111-RAJ Document 106-13 Filed 09/23/20 Page 372 of 378

Cc: Miller, Michael F < Millermf@state.gov>; Richard Ashooh < Richard. Ashooh@bis.doc.gov>

Subject: RE: [Non-DoD Source] USML/CCL review

Thanks Mike L.

From: Laychak, Michael R SES DTSA EO (US) <michael.r.laychak.civ@mail.mil>

Sent: Monday, September 09, 2019 12:51 PM

To: Matthew Borman < Matthew.Borman@bis.doc.gov>; Brackett, Taurus L CIV DTSA LD (USA)

<taurus.l.brackett.civ@mail.mil>; Minnifield, Tracy J CIV DTSA LD (US) <tracy.j.minnifield.civ@mail.mil>; Daoussi, Susan

G CIV DTSA LD (USA) <susan.g.daoussi.civ@mail.mil>

Cc: Miller, Michael F < Millermf@state.gov>; Richard Ashooh < Richard. Ashooh@bis.doc.gov>

Subject: Re: [Non-DoD Source] USML/CCL review

+Taurus, Tracy, Susan

Matt, I am at an offsite til Thursday. Please follow up with Taurus on your request below.

Vr

Mike

Sent from my iPhone

On Sep 9, 2019, at 12:08 PM, Matthew Borman <Matthew.Borman@bis.doc.gov> wrote:

Mike,



Thanks.

Matt

Case 2:20-cv-00111-RAJ Document 106-13 Filed 09/23/20 Page 373 of 378

Message

From: Memos, Nicholas [MemosNI@state.gov]

Sent: 9/11/2019 11:32:52 AM

To: Miller, Michael F [Millermf@state.gov]

Subject: RE: USML/CCL review

Mike,

3:45 I am on the road, to meet my after work commitments. I'll talk with Yolanda about alternate day/time.

Thanks, Nick

Unclassified

From: Miller, Michael F <Millermf@state.gov> **Sent:** Wednesday, September 11, 2019 7:31 AM **To:** Memos, Nicholas <MemosNI@state.gov>

Subject: RE: USML/CCL review

3:45? If that works, please send me a calendar invite to get it on our schedules

From: Memos, Nicholas < Memos NI@state.gov > Date: September 11, 2019 at 7:17:59 AM EDT To: Miller, Michael F < Millermf@state.gov >

Subject: RE: USML/CCL review

Mike,

I would like to have a five minute conversation with you schedule allows for this today.

Please let me know if your

Thanks, Nick

SBU - Deliberative Process

From: Miller, Michael F < <u>Millermf@state.gov</u>> **Sent:** Tuesday, September 10, 2019 12:52 PM

To: Matthew Borman < Matthew.Borman@bis.doc.gov; Laychak, Michael R SES DTSA EO (US)

<michael.r.laychak.civ@mail.mil>; Brackett, Taurus L CIV DTSA LD (USA) <taurus.l.brackett.civ@mail.mil>; Minnifield,

Tracy J CIV DTSA LD (US) tracy J CIV DTSA LD (US) tracy.j.minnifield.civ@mail.mil; Daoussi, Susan G CIV DTSA LD (USA)

<susan.g.daoussi.civ@mail.mil>; Memos, Nicholas <MemosNi@state.gov>; Hart, Robert L <HartRL@state.gov>;

Heidema, Sarah J < HeidemaSJ@state.gov>

Cc: Richard Ashooh < <u>Richard.Ashooh@bis.doc.gov</u>> **Subject:** RE: [Non-DoD Source] USML/CCL review

Importance: High

Thanks Matt.

In related news, would like to get feedback from you on Cats 1-2-3. Thanks, Mike Mike Miller | Acting Deputy Assistant Secretary Bureau of Political-Military Affairs | U.S. Department of State Desk: (202) 663-2861 SBU - Deliberative Process From: Matthew Borman < Matthew.Borman@bis.doc.gov> Sent: Monday, September 9, 2019 3:33 PM To: Laychak, Michael R SES DTSA EO (US) <michael.r.laychak.civ@mail.mil>; Brackett, Taurus L CIV DTSA LD (USA) <taurus.l.brackett.civ@mail.mil>; Minnifield, Tracy J CIV DTSA LD (US) <tracy.j.minnifield.civ@mail.mil>; Daoussi, Susan G CIV DTSA LD (USA) <susan.g.daoussi.civ@mail.mil> Cc: Miller, Michael F < Millermf@state.gov>; Richard Ashooh < Richard.Ashooh@bis.doc.gov> Subject: RE: [Non-DoD Source] USML/CCL review Thanks Mike L. From: Laychak, Michael R SES DTSA EO (US) <michael.r.laychak.civ@mail.mil> Sent: Monday, September 09, 2019 12:51 PM To: Matthew Borman < Matthew.Borman@bis.doc.gov>; Brackett, Taurus L CIV DTSA LD (USA) <taurus.i.brackett.civ@mail.mil>; Minnifield, Tracy J CIV DTSA LD (US) <tracy.j.minnifield.civ@mail.mil>; Daoussi, Susan G CIV DTSA LD (USA) <susan.g.daoussi.civ@mail.mil> Cc: Miller, Michael F < Millermf@state.gov>; Richard Ashooh < Richard.Ashooh@bis.doc.gov> Subject: Re: [Non-DoD Source] USML/CCL review +Taurus, Tracy, Susan Matt, I am at an offsite til Thursday. Please follow up with Taurus on your request below. Vr Mike Sent from my iPhone On Sep 9, 2019, at 12:08 PM, Matthew Borman <Matthew.Borman@bis.doc.gov> wrote: Mike,

Case 2:20-cv-00111-RAJ Document 106-13 Filed 09/23/20 Page 375 of 378

Thanks.

Matt

From: Miller, Michael F [Millermf@state.gov]

Sent: 9/11/2019 12:26:55 PM

To: Memos, Nicholas [MemosNI@state.gov]

Subject: RE: USML/CCL review

1215 would work, but you might have to endure the experience of watching me eat lunch; ok by me though

From: Memos, Nicholas <MemosNI@state.gov>
Date: September 11, 2019 at 7:32:53 AM EDT
To: Miller, Michael F <Millermf@state.gov>

Subject: RE: USML/CCL review

Mike,

3:45 I am on the road, to meet my after work commitments. I'll talk with Yolanda about alternate day/time.

Thanks, Nick

Unclassified

From: Miller, Michael F <Millermf@state.gov> **Sent:** Wednesday, September 11, 2019 7:31 AM **To:** Memos, Nicholas <MemosNI@state.gov>

Subject: RE: USML/CCL review

3:45? If that works, please send me a calendar invite to get it on our schedules

From: Memos, Nicholas < Memos Ni@state.gov > Date: September 11, 2019 at 7:17:59 AM EDT To: Miller, Michael F < Millermf@state.gov >

Subject: RE: USML/CCL review

Mike,

I would like to have a five minute conversation with you schedule allows for this today.

Please let me know if your

Thanks,

Nick

SBU - Deliberative Process

From: Miller, Michael F < Millermf@state.gov>
Sent: Tuesday, September 10, 2019 12:52 PM

To: Matthew Borman < Matthew.Borman@bis.doc.gov; Laychak, Michael R SES DTSA EO (US)

<michael.r.laychak.civ@mail.mil>; Brackett, Taurus L CIV DTSA LD (USA) <taurus.l.brackett.civ@mail.mil>; Minnifield,

Tracy J CIV DTSA LD (US) < tracy.j.minnifield.civ@mail.mil; Daoussi, Susan G CIV DTSA LD (USA)

<susan.g.daoussi.civ@mail.mil>; Memos, Nicholas < MemosNi@state.gov>; Hart, Robert L < HartRL@state.gov>;

Heidema, Sarah J < HeidemaSJ@state.gov>

Cc: Richard Ashooh < Richard. Ashooh@bis.doc.gov > Subject: RE: [Non-DoD Source] USML/CCL review

Importance: High

Thanks Matt.

In related news, would like to get feedback from you on Cats 1-2-3.

Thanks, Mike

Mike Miller | Acting Deputy Assistant Secretary

Bureau of Political-Military Affairs | U.S. Department of State

Desk: (202) 663-2861

SBU - Deliberative Process

From: Matthew Borman < Matthew.Borman@bis.doc.gov>

Sent: Monday, September 9, 2019 3:33 PM

To: Laychak, Michael R SES DTSA EO (US) <michael.r.laychak.civ@mail.mil>; Brackett, Taurus L CIV DTSA LD (USA)

<taurus.i.brackett.civ@mail.mil>; Minnifield, Tracy J CIV DTSA LD (US) <tracy.j.minnifield.civ@mail.mil>; Daoussi, Susan

G CIV DTSA LD (USA) < susan.g.daoussi.civ@mail.mil>

Cc: Miller, Michael F < Millermf@state.gov>; Richard Ashooh < Richard.Ashooh@bis.doc.gov>

Subject: RE: [Non-DoD Source] USML/CCL review

Thanks Mike L.

From: Laychak, Michael R SES DTSA EO (US) <michael.r.laychak.civ@mail.mil>

Sent: Monday, September 09, 2019 12:51 PM

To: Matthew Borman < Matthew.Borman@bis.doc.gov">Matthew.Borman@bis.doc.gov; Brackett, Taurus L CIV DTSA LD (USA)

<taurus.l.brackett.civ@mail.mil>; Minnifield, Tracy J CIV DTSA LD (US) <tracy.j.minnifield.civ@mail.mil>; Daoussi, Susan

G CIV DTSA LD (USA) <susan.g.daoussi.civ@mail.mil>

Cc: Miller, Michael F < Millermf@state.gov>; Richard Ashooh < Richard. Ashooh@bis.doc.gov>

Subject: Re: [Non-DoD Source] USML/CCL review

+Taurus, Tracy, Susan

Matt, I am at an offsite til Thursday. Please follow up with Taurus on your request below.
Vr
Mike
Sent from my iPhone
On Sep 9, 2019, at 12:08 PM, Matthew Borman < Matthew.Borman@bis.doc.gov > wrote:
Mike,
Thanks.
Matt